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## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

### 7 CFR Parts 271 and 274

**[FNS–2012–0028]**

**RIN 0584–AE26**

## Supplemental Nutrition Assistance Program: Trafficking Controls and Fraud Investigations; Extension of Comment Period

**AGENCY:** Food and Nutrition Service (FNS), USDA.

**ACTION:** Final rule, Interim Final Rule; Extension of Comment Period.

**SUMMARY:** The Food and Nutrition Service (FNS) issued a final rule to amend Supplemental Nutrition Assistance Program (SNAP or Program) regulations to allow State agencies to deny a request for a replacement card until contact is made by the household with the State agency, if the requests for replacement cards are determined to be excessive. State agencies which elect to exercise this authority will be required to protect vulnerable persons, such as individuals with disabilities, homeless individuals or the elderly, who may repeatedly lose their Electronic Benefit Transfer (EBT) cards but are not committing fraud.

FNS is also changing the EBT card replacement timeframes in the same section to require State agencies to make replacement cards available for pick up or to place the card in the mail within two business days following notice by the household to the State agency that the card has been lost or stolen. FNS is further amending regulations to define the term ''trafficking'' to include the attempt to buy or sell SNAP benefits in cases where an individual makes the offer to sell SNAP benefits and/or EBT card online or in person.

Finally, FNS issued an interim final rule (with a request for additional comment) that requires State agencies to monitor EBT card replacement requests and send notices to those clients who have requested four cards within a 12-month period. The State agency shall be exempt from sending this Excessive Replacement Card Notice if it adopts the card withholding option in accordance with the final rule and sends the requisite Withhold Replacement Card Warning Notice on the 4th replacement card request. The comment period is being extended to provide additional time for interested parties to review the interim final rule.

**DATES:** Effective November 1, 2013, the comment period for the interim final rule that was published on August 21, 2013 (78 FR 51649) has been extended from October 21, 2013 to November 6, 2013. The comment period on the information collection has been extended from October 21, 2013 to November 6, 2013. To be assured of consideration, comments must be postmarked on or before November 6, 2013.

**ADDRESSES:** The Food and Nutrition Service, USDA, invites interested persons to submit comments on the interim rule provision § 274.6(b)(6). Comments may be submitted by one of the following methods:

- *Federal e-Rulemaking Portal:* Go to *http://www.regulations.gov.* Preferred method; follow the online instructions for submitting comments on docket 2012–0028.
- *Fax: Submit comments by facsimile transmission to:* Jane Duffield, Chief, State Administration Branch, Fax number 703–305–0928.
- *Mail:* Comments should be addressed to Jane Duffield, State Administration Branch, 3101 Park Center Drive, Room 818, Alexandria, VA 22302.
- *Hand Delivery or Courier:* Deliver comments to Jane Duffield, State Administration Branch, 3101 Park Center Drive, Alexandria, VA 22302, Room 818, Monday–Friday, 8:30 a.m.–5:00 p.m.

All comments submitted in response to the interim rule provision will be included in the record and will be made available to the public at *www.regulations.gov.* Please be advised that the substance of the comments and the identity of the individuals or entities submitting the comments will be subject to public disclosure.

**FOR FURTHER INFORMATION CONTACT:** Jane Duffield, Chief, State Administration Branch, Food and Nutrition Service, USDA, 3101 Park Center Drive, Alexandria, Virginia, 22302. Ms. Duffield may be reached by telephone at 703–605–4385.

**SUPPLEMENTARY INFORMATION:**

### Background

In the final rule published on August 21, 2013 (78 FR 51649), FNS amended the SNAP regulations at 7 CFR 274.6, to give State agencies an option for handling requests for multiple replacement cards. Current regulations do not allow State agencies to require clients requesting multiple replacement cards to contact the agency and provide an explanation before a new card is issued, even though such requests may indicate fraudulent activity. Under this rule, State agencies may choose to withhold the benefit card when the client has requested an excessive number of replacements, until the client makes contact with the State agency to provide an explanation for the request. State agencies taking this option would be expected to establish a threshold beyond which the individual must make contact. That threshold may not be fewer than four cards in a 12-month period prior to the request, except in limited circumstances.

Although the intent of the rule is not to systematically affect clients requesting fewer than four cards in a 12-month period, FNS recognizes that State agencies may obtain additional evidence indicating that a household is suspected of potential fraud that may warrant initiating the process sooner. For example, if a State agency receives a complaint that an individual sold their EBT card to another party, the State agency shall initiate an investigation and may promptly provide a notice to the client, requiring the individual or household to contact the State agency to provide an explanation prior to receiving a subsequent replacement card.

FNS established the minimum threshold of four cards within a 12-month period on the basis of an analysis of SNAP EBT electronic transaction records. FNS found that shopping behavior appeared consistent when compared to the average until a household requested its fourth replacement card. Transaction activity

indicates that, after the fourth replacement card, a household's shopping behavior is three times more likely to be flagged as potential trafficking by FNS' fraud detection system. Trafficking is the exchange of benefits for cash or other consideration, as defined at 7 CFR 271.2, and is the most egregious Program violation. Furthermore, FNS found during the period of January 2012 through December 2012, approximately 98 percent of participating households had three or fewer EBT cards, with most (79 percent) utilizing only one card throughout the year. This further reinforces that most requests for replacement cards are legitimate and when they occur, it is most likely to replace a lost or damaged card. Since so few households request four or more replacement cards and those that do have such markedly different transaction activity as to indicate a higher likelihood of potential trafficking, FNS chose to define a minimum threshold, and to consider requests beyond four cards within a 12-month period to be considered excessive and a potential indicator of trafficking.

Under this option, the State agency must notify the household when the threshold for excessive card replacements is reached, as determined by the State agency, and indicate that if a member of the household requests another card replacement, the State agency will withhold the card until contact is made. The State agency would be expected to contact the fraud investigation unit regarding clients who contact the agency but do not provide an appropriate explanation. The State agency must issue a replacement card during an ongoing investigation. In all cases, States would be required to protect vulnerable persons who lose EBT cards but are not committing fraud.

FNS is further amending 7 CFR 274.6, to change the EBT card replacement timeframes, requiring State agencies to make replacement cards available for pick up or to place the card in the mail within two business days following notice by the client that the card has been lost, stolen, or damaged. Currently, State agencies must ensure clients receive replacement EBT cards within two business days (or five business days if using a centralized mail issuance system) after the client notifies the State agency that the card has been lost or stolen. This change places the requirement on the State agency issuance end instead of the on receiving end of the replacement card process, and alleviates State agencies' responsibility for mail delays beyond their control, while allowing FNS to hold State agencies more accountable for delays within their control.

Additionally, the final rule amends the definition of trafficking to include actions that clearly express the attempt to sell or buy SNAP benefits or EBT cards in person or online through Web sites and social media.

Finally, FNS is issuing an interim final rule provision at 7 CFR 274.6(b)(6), that requires State agencies to monitor card replacement requests and issue Excessive Replacement Card Notices to clients who have requested four card replacements in a 12-month period. The State agency shall be exempt from sending this notice if it chooses to exercise the card withholding option, in accordance with 7 CFR 274.6(b)(5), and sends the Withhold Replacement Card Warning Notice upon the household's fourth card replacement request, indicating that the State agency will withhold a fifth replacement card until the household contacts the State agency.

FNS' decision to issue the interim final rule is based on a comment received in response to the proposed rule. The commenter suggested that the Department propose a method for handling multiple card requests similar to that initiated by North Carolina and recently implemented by the majority of States. The commenter added that the process has proven to be efficient and cost effective for State agencies. FNS agrees with this comment and is, therefore, amending the regulations in the same section, requiring States to monitor and send warning notices to clients who request four card replacements in a 12-month period. Based on current data, the number of clients requesting five or more cards has decreased nationally since many States adopted this practice. Since the majority of States currently monitor EBT card replacement requests and subsequently issue warning notices for four or more requests, FNS does not believe this provision will create a substantial burden for States overall.

The proposed rule was published on May 30, 2012, at 77 FR 31738, and public comments were invited through July 30, 2012. All comments have been considered and adjustments have been made to the final and interim final rule. States administering SNAP are required to administer the Program in accordance with the provisions of the Act and regulations issued pursuant to the Act, including 7 CFR parts 271 and 274.

Failure to comply with the final rule and the interim final rule when they become effective would be subject to appropriate FNS action.

*Summary of Comments and Explanation of Revisions*

Thirty-six comments to the proposed regulations were received from various stakeholders and are available for public inspection online at *www.regulations.gov.* In general, most commenters supported the regulations but not as currently written. FNS received eight comments in full support of the rule in its entirety. FNS received one comment which did not offer any comments on the contents of this rule but focused on other areas, such as retailer issues, which is being addressed in other FNS rulemaking. FNS also received comments with suggestions for additional ways to reduce trafficking or ways of handling EBT cards. Examples of these suggestions include making benefit cards larger, using neon colors, having a photo on the card, and charging for the cards, as much as $50.00 from one commenter. These comments were reviewed and considered but will not be included in this final rulemaking as they were not directly related to the proposal for a State option to withhold the card upon excessive card replacement requests until the household makes contact. FNS received three comments which stated that allowing four replacements is too many and that FNS is being too lenient. This comment was considered but is not included in the final rulemaking as FNS utilized a statistical basis for establishing the minimum threshold, one that differentiates between typical behavior and activity that is more likely to indicate fraud, while allowing States to initiate the process sooner if the State is in possession of additional evidence of trafficking.

*Allow States To Withhold Replacement Cards Until Contact Is Made With the State Agency*

Several commenters suggested that the threshold for card replacements should be applied to individuals, not households, as some households contain more than one person with a card. These commenters further suggested that EBT cards that are never used should not count against the total for replacements. They pointed out that some clients may not use an EBT card because they request a card be mailed but then go to the office and pick up another card before receiving the card in the mail. Another commenter suggested that many first-time users do not understand how to use the card and a grace period in the beginning would benefit those clients. Multiple commenters felt that individuals must be provided notice before reaching the

threshold, as well as receiving a notice once they have exceeded the threshold. Two commenters stated the notice should clarify a reasonable timeframe for the individual to respond. Multiple commenters stated that the notice to the individual must contain contact information for individuals who would like to get more information or need help with their card. Some commenters further noted that the notice should contain information about what it means to be referred to the fraud unit and to meet with a fraud investigator. One commenter stated the rule is not clear that the contact can be made by phone or in person, and that it should be made clear that this is the client's choice. FNS received two comments regarding limited English proficiency, which suggested that notices must be sent in the individual's chosen language.

The terms ''individual'' and ''household'' are both used in this rule and serve different purposes. FNS does not intend for this rule to require all members of the household make contact with the State agency before a replacement card can be issued. However, the household must receive the proper notification when the card will be withheld. The household must be aware of why the card is being withheld and understand what they are required to do in order to receive their card replacement. The term ''individual'' is used regarding the required contact by an individual member of the household. Further, only an individual who has been found guilty through an administrative or court hearing may be disqualified from SNAP, not the entire household, per regulations at 7 CFR 273.16(b)(11). FNS will retain in the final rule that all card replacement requests will count towards the threshold, regardless of the reason for the request.

Some clients may not understand the State's process for how to request replacement cards or how long to expect the card replacement to take. For example, they may not understand that a replacement card is not needed every time the benefits are spent down or that once a card is requested, it may take a few days to receive the replacement. This may create situations where clients request additional cards while they are waiting for a replacement card to arrive. In such cases, the State would be able to determine that there is no suspicious activity and thus no reason to refer the case for a fraud investigation. In these situations, States have an opportunity to follow up with these cases and educate the clients about the appropriate replacement card process or otherwise intercede, such as appointing an authorized representative to help the household manage the EBT card.

FNS believes that it is sufficient to notify the client once when they have reached the excessive card replacement threshold, prior to the State agency withholding the EBT card, and then once they exceed the threshold, at the times the State agency withholds the EBT card. The final rule requires that States implementing the card withholding option must send notices to the most recent address on file for all households who have reached or exceeded the excessive card replacement threshold. The State agency may only request an explanation, provide a 5th replacement card, and if deemed appropriate, refer the case for investigation, after the State agency has sent the written notice to the household that the State agency is withholding the household's EBT card. If the State agency has an over-the counter issuance system in place, and the client comes in to request a 5th replacement card, the State agency must document that the client has first received the written warning notice to withhold the 5th replacement card prior to requesting an explanation from the client, replacing the card, and if deemed appropriate, referring the case for investigation.

States are not required to include a timeframe in the notice because the State can continue to hold the card until the client contacts the State agency. It is up to the client to make the contact in order to receive their replacement card. If the client never makes contact with the agency, the card may be held indefinitely, likely until the client is up for recertification or benefits are expunged according to FNS regulations at 7 CFR 274.2(h).

FNS has also clarified that the notices include information about how the client is to contact the State agency, including a telephone number. It is up to the State agency to determine how the contact should be made, such as in person or by phone, and the State agency must take into consideration those with special circumstances and make accommodations for compliance. FNS feels that notice requirements are adequate for their intended purpose and the notice does not require a statement about what it means to be referred for a fraud investigation. Not all households receiving these notices will be referred for an investigation; some are likely candidates for receiving educational information regarding the proper use of their card. State agencies should provide information on proper EBT card use on the notices. FNS will retain in the final rule the requirement that the State ensures that notices meet language requirements described at 7 CFR 272.4(b).

FNS received several comments suggesting that any explanation provided by the individual that is not evidence of fraud is a satisfactory explanation. Commenters stated that FNS should make clear that the State may only initiate an investigation for fraud when the explanation provides evidence of fraud. One commenter stated that the language is too vague and permissive, and allows eligibility workers to interpret many legitimate explanations as suspicious. Another commenter points to 7 CFR 273.16(a), which states that the disqualification or prosecution process cannot be initiated unless the State agency has sufficient documentary evidence to substantiate fraud.

The final regulation does not specify which client explanations for needing card replacements are suspicious and which are satisfactory. FNS requires States to refer individuals for fraud investigations and conduct investigations on all cases that the State agency has determined suspicious. The State is not required to have evidence in order to conduct an investigation. The purpose of the investigative process is for the State agency to determine if fraudulent behavior occurred, and to gather evidence in order to pursue a disqualification and/or criminal charges where appropriate. If the State cannot gather enough evidence, then the case would not be taken through the administrative disqualification hearing (ADH) process or prosecuted, and no disqualification penalty will be assigned. If the State has gathered enough evidence of an Intentional Program Violation (IPV), the case will be heard by the appropriate authority, who will make a determination as to whether the individual committed an IPV. 7 CFR 273.16(a) does not preclude a State agency from conducting an investigation to collect evidence, rather it specifies that the case may not be taken to an ADH or prosecuted without sufficient documentary evidence—which is gathered during the investigation.

One commenter stated that, if the State provides a replacement card to a household that has made contact but has not provided an explanation for the need to replace the card, the State has rewarded the household for non-cooperation. Another commenter stated that clients will not cooperate or show up because there is no reason to do so, and FNS should revise the rule to allow the State agency to close the case if the recipient fails to keep the interview

appointment or refuses to cooperate during investigations.

FNS does not view the release of the EBT replacement card upon contact with the State agency as rewarding the household for failing to cooperate. This process provides the State agency an opportunity to address the issue with the client to determine if the behavior may be indicative of fraud. In cases where the client does not provide a reasonable explanation for the requests, the State agency must refer the case to the State's fraud investigation unit. This final rule is intended to provide a tool for States to use as a means of assessing these cases of multiple card replacements. It is not intended as a means for a State agency to terminate or close a case.

State agencies may not terminate or close a case where the client has not been found guilty of an IPV through an ADH or a court hearing. Clients have the right to remain silent and have their cases heard by the appropriate authority. Until the client has been found to have committed an IPV, the case may not be closed. This final rule allows the State agency to hold the card until the household makes contact in order to help the State agency determine why they are requesting so many cards. If the client refuses to cooperate by not providing an explanation, this should be taken into consideration and the case must be turned over for an investigation. However, withholding the card until contact is made, regardless of client cooperation, does not affect the client's eligibility for the Program.

One commenter stated that the rule should ensure that States replace cards without any undue delays, such as lengthy waits in State agency offices, lack of access to in-person appointments or inability to reach someone at the State agency by phone. FNS agrees that the State agency must ensure they have a process in place to handle these cases and there is not a delay in issuing the card when the client complies with the requirement to contact the State agency after reaching the excessive card threshold for replacement cards. The regulation has been modified to require State agencies to mail or make the replacement card available for pick up within two business days after the client contacts the State agency to provide an explanation.

FNS received 11 comments requesting guidance be provided for States that use EBT cards for both SNAP and cash assistance. One commenter expressed concerns as some States use EBT cards for SNAP, cash benefits and Medicaid. The commenter stated that if the card is also used to deliver cash aid, such as Temporary Assistance for Needy Families (TANF), it cannot be withheld or delayed unless the cash assistance program provides for this. FNS recognizes the challenge where EBT cards are used for multiple programs and reiterates that the process for withholding the card in these cases is a State agency's option and not a requirement. FNS has conferred with the United States Department of Health and Human Services (HHS), which has responsibility for the TANF Program, and determined there are no TANF rules preventing States from invoking this option. FNS urges State agencies to work with other assistance programs delivered on the State's EBT card, such as Medicaid, to determine solutions that may address this issue. FNS is willing to assist States in this process.

FNS received four comments regarding the increased workload issues, costliness and requirement of massive system changes to implement this rule. These comments expressed that this option will create a lot of work for State agencies, and the agencies will not get much in return for the extra effort. State agencies may choose not to implement this process because they decide it is not a good use of limited State resources.

One commenter is concerned with implementing this rule timely, and the ability or willingness of EBT contractors to make the necessary changes for reports on card replacements. This section of the final rule, allowing State agencies to withhold the EBT card until contact is made, is an agency option designed to provide States with a tool to assist in identifying and disqualifying those who are committing IPVs against SNAP, as well as to educate those who do not understand how to properly use their EBT card. FNS is not requiring State agencies to implement this option and therefore has no requirement for agencies to comply in a timely manner. FNS encourages State agencies that want to exercise this option to meet with their EBT processors to discuss which reports will be useful and identify their needs so that the EBT processors can determine the best way to support this process. Identifying and disqualifying anyone who commits an IPV by requesting multiple card replacements and trafficking SNAP benefits sends a strong message that abuse of the Program will not be tolerated.

FNS received one comment stating that the rule should direct State agencies to inquire whether an individual who repeatedly requests card replacements needs some accommodation and to investigate the feasibility of allowing restrictions on recipients with disabilities to only use their EBT cards in certain stores. FNS received five comments that the rule should provide much more detail about what the State agency should do to protect victims of crime, the homeless and persons with disabilities. One commenter was concerned that a State agency may require only in-person meetings to get information about excessive card replacements, thus placing severe hardship on the elderly and disabled. Another commenter was concerned about the noticing requirements to the homeless population, making this difficult and impractical to apply equitably to them. Another commenter stated that the homeless should not be excluded from providing an explanation for excessive requests for card replacements. These comments suggested that FNS should provide guidance on specific steps to protect vulnerable populations and the definition of vulnerable population should be expanded to include other groups, such as illiterate populations and victims of domestic violence.

FNS expects that State agencies will work to ensure no undue hardships are placed on the elderly or disabled and the accommodations State agencies typically make available to comply with federal regulations will also be made available for them if a State agency invokes this option. The Agency thinks the rule is sufficiently clear in this regard. FNS does not have the legal authority to restrict or limit card usage to certain authorized retailers. This option to withhold the card is a tool for State agencies to monitor the integrity of the Program and FNS expects State agencies will follow all existing requirements and regulations if they choose to exercise this option.

The State agency should make every effort to reach those clients who are known to be homeless and to take that circumstance into consideration when these clients reach their card threshold. For example, if a State agency suspects that the client is in a vulnerable status group such as the elderly, disabled, or homeless and needs additional accommodation, the State agency may choose to contact the client for purposes of collecting information for the card replacement option; however, the State agency must still send a warning notice to the most recent address on file prior to requesting an explanation and providing the 5th EBT card replacement. Some State agencies also allow clients who do not list an address to pick up their notices in the local office. State agencies may opt to give written notice to homeless clients and

discuss excessive card replacements when homeless clients come into the State agency office to request a card that exceeds the threshold. Those clients which are part of the vulnerable populations are not excluded from providing an explanation but may need accommodations to assist them in providing the explanation.

State agencies should take the household's circumstances into account when considering their explanation for needing multiple replacements. The regulation, as written, encompasses other vulnerable populations, such as those who are illiterate, those with language barriers and victims of domestic violence, which allows for State agencies to make a determination as they become aware of a client's circumstance. FNS has removed references that suggest that contact must be made by phone or in-person. While phone and in-person contact is acceptable, this will provide State agencies the flexibility to offer other contact options to those with special circumstances.

Several comments asked for FNS to clarify what sufficient additional evidence they would need to provide to warrant withholding a card sooner than the threshold. A commenter also stated that the evidence be specific to the individual, rather than a characteristic that they may share with others, such as residency or the food store where they shop. There are many circumstances a State may become aware of that would make them want to take action sooner. State agencies may in fact receive evidence that direct them to a particular household based on activity by one household member or transactions conducted at a store under suspicion of trafficking. A State agency may receive a complaint indicating that a client is selling their card for cash and then requesting a replacement card. Or a State agency may flag a client based on suspicious transaction activity that is indicative of trafficking. Some clients may already be under investigation and the State agency may already have additional evidence in their case when the client makes another card request. These are examples of cases where the State agency has additional evidence that may warrant noticing the client sooner than the determined threshold. By determining four cards within a 12-month period as excessive, FNS is providing State agencies with its expectation of how to respond systematically. The minimum threshold is not intended to preclude a State agency from initiating the process sooner for individual households if they have additional evidence that warrants doing so, to ensure that potential trafficking situations are identified and acted upon quickly.

FNS received four comments that interrupting the household's access to benefits by delaying or denying a replacement card would deny the household its right to a predetermination hearing under 7 CFR 273.15, section 11(e)(10) of the Act, and due process clauses as interpreted by *Goldberg* v. *Kelly,* 397 US 254 (1970). Another commenter stated that, since these are adverse actions, if the client does not contact the State agency, the regulation must provide that the notice include information about fair hearing rights.

FNS does not agree that the rule fails to provide due process. FNS currently allows State agencies the choice to make cards available to clients either by coming to the office to pick them up or by mail. While most State agencies use a central mail process to issue cards, there are agencies which only use the over-the-counter method for issuing cards to clients. Other State agencies use the over-the-counter method but will mail cards in special circumstances. This has always been a State agency's option and FNS does not consider the over-the-counter method as interrupting a household's access to benefits or violating due process requirements. The cards and benefits are available for the client once the card is made available pursuant to current regulations at 7 CFR 274.6(b). Similarly, when the State agency chooses to withhold the card until the client makes contact, those agencies must make the card available, pursuant to 7 CFR 274.6(b) in this final rule, to the client once the client makes the required contact. Furthermore, as stated earlier, eligibility remains unaffected by this process. The benefits the household has been determined eligible to receive are made available on the EBT card as long as the household remains eligible and the client has access to the card by making the required contact with the State agency. Therefore, because the withholding of a replacement card in accordance with this final rule is not an adverse action, Section 11(e)(10) of the Act and 7 CFR 273.15 do not apply.

Commenters also stated that there is the possibility of coercion because the threat of delay of benefits forces someone to incriminate themselves. FNS does not believe that this would be coercion because the client is not required to provide an explanation in order to receive their card. The card will be given to the client regardless of their willingness to answer questions or otherwise cooperate beyond making contact. State agencies are expected to clearly explain in their notice to clients that clients must contact the State agency but that they are not required to provide an explanation in order to receive a replacement card. Notices to clients should explain that the process is being used to yield useful, accurate information and will not be used in a way that might harass or coerce clients into making false statements.

FNS received one comment stating that the commenter was unclear how withholding the card improves trafficking prevention if FNS has the ability to track EBT data. By withholding the card, FNS believes it provides the State agency with the necessary tools to obtain sufficient information from a household in order to determine the nature of the excessive card replacement requests. This information allows the State agency to better determine whether the request is legitimate and indicates a need to educate the household on how to better manage their EBT card, or that an explanation is suspicious and warrants a referral for investigation.

Another commenter asked that further clarification should be provided concerning the analysis used to determine the four card threshold. FNS determined the minimum threshold of four cards within a 12-month period based on the fact that 98 percent of households use three or fewer cards within a year, with most (79 percent) using only one card. Also, for those that exceed the fourth replacement card, their transaction activity is three times more likely to be flagged as trafficking by FNS' fraud detection system.

FNS received one comment that the rule is restrictive since State agencies are unable to make contact for subsequent replacement requests beyond the threshold level unless the pattern has changed. The commenter suggests that each person is limited to one call or visit to explain the circumstances for the request and this does not do much to deter fraud. If the State agency has spoken with the client or conducted an investigation and found no evidence of fraud, the agency may not continue to withhold that card. However, the State agency should continue to monitor additional card requests, and if the household continues to request additional cards and the pattern of card activity changes to indicate possible trafficking behavior, the State agency may notify the household that the State agency is withholding the EBT card and that the household must contact the State agency to provide an explanation before receiving another card.

FNS received multiple comments referencing the rule is too lenient and allowing four cards is too many. As noted above, the minimum threshold is based on an analysis by FNS of electronic transaction data, which demonstrates a statistically significant difference when a household requests a fourth replacement card indicating that transaction activity is three times more likely to be flagged as potential trafficking, compared to clients with three or fewer replacement cards. As the intent of the rule is to further strengthen program integrity, FNS believes that the threshold of four cards within a 12-month period is appropriate. However, FNS acknowledges that State agencies may want to initiate the process sooner if they have additional evidence that a household is suspected of trafficking, thus the final rule maintains this provision.

*Required Excessive Replacement Card Notice*

In new paragraph 7 CFR 274.6(b)(6), FNS has included a requirement in this interim rule that State agencies monitor requests for EBT card replacements and send a Excessive Replacement Card Notice to clients who request four cards in a 12-month period. If a client requests a fifth replacement card, the State agency shall refer the case to the State's fraud investigation unit, if they suspect the client is trafficking. If the State agency suspects the client's lack of understanding of how to manage an EBT card is the reason for requesting excessive replacement cards, no referral for investigation is warranted and, therefore, should not be made.

If the State agency chooses to exercise the option to withhold the replacement card until it is contacted by the client, and as long as the threshold used for the initial Withhold Replacement Card Warning Notice is on the fourth card replacement request, the State agency shall be exempt from sending the Excessive Replacement Card Notice, in accordance with 7 CFR 274.6(b)(6)(i). If the State agency chooses the option to withhold the replacement card and uses a threshold higher than the fourth card replacement request for the initial notice, the State agency must send the Excessive Replacement Card Notice upon the fourth card request in accordance with 7 CFR 274.6(b)(6). This interim rule provides a minimum requirement for the contents of the required Excessive Replacement Card Notice. States may contact FNS for specific examples. Paragraph 274.6(b)(6) is being published as an interim final rule in order to provide the opportunity for comment.

The decision to include paragraph 274.6(b)(6) as an interim rule is based on a comment received on the proposed regulation. The comment notes that FNS has touted the North Carolina agency's approach to handling multiple card replacements the State agency sends a letter to any household requesting four or more cards in a 12-month period and if another request is made, refers the case to the State's fraud investigation unit. The commenter added that the model to use a letter to deter excessive card replacements has proven to be very effective and less burdensome for State agencies and should have been reflected in the proposed regulation. FNS agrees with the commenter that the North Carolina agency's model is a reasonable and simple process and is aware that the majority of State agencies are currently issuing notices based on this model.

FNS believes that all State agencies should be monitoring card replacement activity and that the requirement to issue an Excessive Replacement Card Notice, as set forth in this interim final rule, along with the option to withhold a replacement card until the client contacts the State agency, as set forth in the final rule, provide important tools for State agencies to use in monitoring and preventing trafficking of EBT cards. Since the majority of States currently send warning notices to households with four or more replacement card requests, FNS does not believe the noticing requirement will substantially increase the burden for State agencies overall.

*Card Replacement Timeframes*

Thirteen commenters addressed the provision prescribing a one business day timeframe when State agencies must make a replacement card available for pick up or place a replacement EBT card in the mail instead of when the client must actually receive the EBT card.

Some commenters believed the proposed change is unwarranted and would result in delaying benefits to needy households. Other commenters wanted FNS to require that State agencies replace EBT cards within 7 days when mailing cards instead of requiring that State agencies place the card in the mail within one business day.

Because State agencies do not have control over the length of time it takes the United States Postal Service (USPS) to get replacement EBT cards into the hands of SNAP households, FNS believes that prescribing when States must act on a card replacement request is a better approach to minimize possible delays that are beyond the States' control. In the end, FNS expects that the new provision will better ensure that SNAP households receive their replacement cards within a reasonable amount of time, while also giving FNS greater ability to hold State agencies accountable for delays within their control.

Another commenter felt the proposed requirement for placing the card in the mail within one day is too restrictive because State agencies need more days to investigate and verify instances of identity theft or other possible abuses. Another commenter felt State agencies should be able to determine their own timeframes for mailing or making replacement cards available, depending on the number of replacement cards requested, the reason for the request, and other factors. The commenter added that if the replacement is questionable, but does not prove fraud, the State agency would then be able to extend the timeframe to a longer period so the household is penalized. The proposed rule specifically provides State agencies the opportunity for further investigation, if there have been multiple card replacement requests before having to provide another card. As a result, State agencies now have the ability to delay a card replacement until contact is made for an individual household that meets the threshold for excessive card replacements or whose request is questionable based on available evidence. At the same time, FNS continues to believe clients who have legitimately lost their card or had it stolen must receive a replacement card within a reasonable amount of time to ensure they have access to benefits necessary to meet their dietary needs. Therefore, in an effort to take the different perspectives into consideration, FNS has decided to extend the timeframe by when State agencies must act on card replacement requests that do not meet the criteria for further investigation to two business days instead of one.

Several commenters also requested FNS specifically prohibit the use of bulk mail, indicating that many State agencies use bulk mail postage to reduce costs, which results in delayed mailings as a State agency waits to amass enough items to reach the bulk rate minimum. As a result, bulk mail may not be delivered for several weeks, in contrast to the typical delivery time of 5 days for regular mail. Under the new provision, State agencies must meet the required two-day timeframe for acting on card replacement requests. Therefore, they cannot wait to amass enough replacement cards to reach the minimum requirement for bulk rate

mailings. Furthermore, the use of first class mail for issuing cards is already required under 7 CFR 274.2(b). However, FNS is convinced of the importance of specifically requiring first class mail when mailing replacement cards in order to prevent excessive delays in getting clients the access they need to their benefits. Therefore, under § 274.6, we are specifically requiring that State agencies issue replacement cards in accordance with the requirement under § 274.2 to use first-class mail and sturdy non-forwarding envelopes when mailing EBT cards.

One commenter requested that FNS specifically prohibit mailing Personal Identification Numbers (PINs) with EBT cards, while another commenter asked that both the card and PIN be mailed within one business day. The proposed provision required that State agencies mail EBT cards and PINs in accordance with industry standards. In general, States agencies no longer mail assigned PINs and all provide clients with the ability to select their own PIN through an automated response unit. However, FNS understands that PINs must be mailed separately from EBT cards to prevent theft and fraudulent use of the card and that clients cannot access their benefits without the PIN. Therefore, for those State agencies that mail assigned PINs or provide that option, we are specifically requiring that PINs and cards be mailed separately and PINs be mailed one business day after the card is mailed. This requirement applies to both initial issuance and card replacements.

Several other commenters felt State agencies should be required to explain to the household their options for mailing or picking up a replacement card and the timeframe associated with both. FNS wishes to clarify that State agencies are not required to provide both mailing and pick-up options, nor did FNS propose all State agencies should now offer both options. In general, State agencies rely mostly on one method or the other, providing the alternative option in only special circumstances. Because there are both advantages and disadvantages associated with each option, FNS continues to believe that State agencies are in the best position to decide which option better meets the needs of their SNAP population. Furthermore, training requirements in 7 CFR 274.2(e) already require State agencies to inform all households of the card replacement policies. Therefore, FNS will continue to rely on the existing provision for informing clients of the card replacement timeframes and possible options.

Finally, in response to a comment regarding the timeframes for cards other than those that are lost or stolen, FNS is including damaged cards in the card replacement provision in order to be consistent with related language in other provisions.

*Clarify the Definition of Trafficking*

In the proposed rule, FNS clarified the definition of trafficking to include the intent to sell SNAP benefits. FNS received numerous comments that the definition of trafficking should use the word ''attempt'' instead of ''intent.'' Commenters state that the word ''intent'' permits State agencies to take action based on what people are thinking and not what they are doing. ''Attempt'' consists of the intent to do an act, an overt action beyond mere preparation, and the failure to complete the act. FNS also received numerous comments that the definition of ''trafficking'' should include the word ''buy'' as well as the word ''sell''. FNS agrees with both of these comments and has made this change in the final regulation language.

FNS received one comment that the rule should make clear that the party found to have committed an IPV is the individual who violates, or attempts to violate, the Program. Other members of the household, including the head of household, should not be found to have committed an IPV if they are not involved in the activity. FNS agrees with this comment. FNS regulations under 7 CFR 273.16(b)(11) are clear that IPVs are assigned to individuals who are found guilty and not the entire household. FNS expects State agencies to comply with FNS regulations and only the household member who committed the IPV is disqualified from the Program. As this perspective is already clear in regulation, no additional modifications are being made.

FNS received one comment that adding to a definition that already prohibits this behavior is an expansion, not a clarification. The comment further states that USDA already clarified in a policy memo that the regulations already prohibit this behavior. FNS agrees that it is amending the definition of ''trafficking'' to include the attempt to buy and sell benefits, thus giving State agencies expanded means to target both retailers and recipients who attempt to buy or sell SNAP benefits online or in person.

FNS received five comments regarding eliminating the reference to ''coupons.'' FNS also received one comment that the definition should include both recipients and retailers. A final rule titled, *Supplemental Nutrition Assistance Program (SNAP): Updated Trafficking Definition and Supplemental Nutrition Assistance Program—Food Distribution Program on Indian Reservations Dual Participation,* 78 FR 11967 (Feb. 21, 2013) eliminates coupon terminology from the trafficking definition and applies the trafficking definition to both clients and retailers.

**Procedural Matters**

**Executive Order 12866**

This rule has been determined to be not significant and was reviewed by the Office of Management and Budget (OMB) in conformance with Executive Order 12866.

**Regulatory Flexibility Act**

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (RFA) of 1980, 5 U.S.C. 601–612. Pursuant to that review, it has been certified this rule would not have a significant impact on a substantial number of small entities. State agencies that distribute Supplemental Nutrition Assistance Program benefits are the entities affected by this change.

**Unfunded Mandates Reform Act**

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

This final rule does not contain Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local and Tribal governments or the private sector of $100 million or more in any one year. Thus, the rule is not subject to the requirements of sections 202 and 205 of the UMRA.

**Executive Order 12372**

The Supplemental Nutrition Assistance Program is listed in the Catalog of Federal Domestic Assistance Programs under 10.551. For the reasons

set forth in the final rule in 7 CFR part 3015, subpart V, and related Notice (48 FR 29115, June 24, 1983), this program is included in the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

**Federalism Summary Impact Statement**

Executive Order 13132, requires Federal agencies to consider the impact of their regulatory actions on State and local governments. Where such actions have federalism implications, agencies are directed to provide a statement for inclusion in the preamble to the regulations describing the agency's considerations in terms of the three categories called for under Section (6)(b)(2)(B) of Executive Order 13132. FNS has considered this rule's impact on State and local agencies and has determined that because the majority of States currently send warning notices to households with four or more replacement card requests, this rule does not have federalism implications under Executive Order 13132. This rule does not impose substantial or direct compliance costs on State and local governments. Therefore, under Section (6)(b) of the Executive Order, a federalism summary impact statement is not required.

**Executive Order 12988**

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This final rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full and timely implementation. This rule is not intended to have retroactive effect unless so specified in the Effective Dates section of the final rule. Prior to any judicial challenge to the provisions of the final rule, all applicable administrative procedures must be exhausted.

**Civil Rights Impact Analysis**

FNS has reviewed this final rule in accordance with the Department Regulation 4300–4, ''Civil Rights Impact Analysis,'' to identify and address any major civil rights impacts the rule might have on minorities, women and persons with disabilities. After a careful review of the rule's intent and provisions, FNS has determined that this rule will not in any way limit or reduce the ability of protected classes of individuals to receive SNAP benefits on the basis of their race, color, national origin, sex, age, disability, religion or political belief nor will it have a differential impact on minority owned or operated business establishments, and women owned or operated business establishments that participate in SNAP.

**Executive Order 13175**

Executive Order 13175, requires Federal agencies to consult and coordinate with tribes on a government-to-government basis on policies that have tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. In November of 2011 and May of 2013, USDA engaged in a series of consultative sessions to obtain input by Tribal officials or their designees concerning the impact of this rule on the tribe or Indian Tribal governments, or whether this rule may preempt Tribal law. Reports from these sessions for consultation will be made part of the USDA annual reporting on Tribal Consultation and Collaboration.

**Paperwork Reduction Act**

The Paperwork Reduction Act of 1995 (44 U.S.C. Chap. 35; see 5 CFR 1320) requires the Office of Management and Budget (OMB) approve all collections of information by a Federal agency before they can be implemented. Respondents are not required to respond to any collection of information unless it displays a current valid OMB control number. This final and interim final rule contains information collections that are subject to review and approval by OMB. Therefore, FNS has submitted an information collection under 0584—NEW, which contains the burden information in the rule for OMB's review and approval. The new provisions in this rule, which increase current burden hours by 8,336 hours, will be merged into Supplemental Nutrition Assistance Program (SNAP) Forms: Applications, Periodic Reporting, Notices, OMB Control Number #0584–0064, expiration date 4/30/2016. These changes are contingent upon OMB approval under the Paperwork Reduction Act of 1995. When the information collection requirements have been approved, the Department will publish a separate action in the **Federal Register** announcing OMB's approval.

Comments on the information collection in this final and interim final rule has been extended from October 21, 2013 to November 6, 2013. Send comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for FNS, Washington, DC 20503. Please also send a copy of your comments to Jane Duffield, State Administration Branch, 3101 Park Center Drive, Alexandria, VA 22302. For further information, or for copies of the information collection requirements, please contact Jane Duffield at the address indicated above. Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the Agency's functions, including whether the information will have practical utility; (2) the accuracy of the Agency's estimate of the proposed information collection burden, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. All responses to this request for comments will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

*Title:* Supplemental Nutrition Assistance Program: Trafficking Controls and Fraud Investigations.

*OMB Number:* 0584—NEW.

*Expiration Date:* Not Yet Determined.

*Type of Request:* New Collection.

*Abstract:* This rule codifies provisions for State Agencies to issue warning notices to withhold replacement cards or a notice for excessive replacement cards.

Withhold Replacement Card Warning Notice: State agencies may require an individual member of a household to contact the State agency to provide an explanation in cases where the number of requests for card replacements is determined excessive. The State agency must notify the household in writing when it has reached the threshold, indicating that the next request for card replacement will require the client to contact the State agency to provide an explanation for the requests, before the replacement card will be issued. The State agency must also notify the household in writing once the threshold has been exceeded and the State agency is withholding the card until contact is made.

Excessive Replacement Card Notice: State agencies must monitor all client requests for EBT card replacements and send a notice, upon the fourth request in a 12-month period, alerting the

household their account is being monitored for potential, suspicious activity. The State agency is exempt from sending this notice if they have chosen to exercise the option to withhold the replacement card until contact is made with the State agency.

The average burden per response and the annual burden hours are explained below and summarized in the charts which follow.

*Respondents for this rule:* State and Local Agencies; Households.

*Estimated Number of Respondents for this rule:* 23,864.

*Estimated Number of Responses per Respondent for this rule:* 2.49.

*Estimated Total Annual Responses:* 59,528.

*Estimated Total Annual Burden on Respondents for this rule:* 8,336.

ESTIMATED ANNUAL BURDEN FOR 0584—NEW SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM: TRAFFICKING CONTROLS AND FRAUD, 7 CFR 274

| CFR | Title | Number of respondents | Annual reports | Total annual responses | Burden hours per response | Total burden hours |
|---|---|---|---|---|---|---|
| **Affected Public: State and Local Agencies** | | | | | | |
| 274.6(b)(5) | Withhold Replacement Card Warning Notice. | 26.5 | 449.26 | 11,905.5 | 0.0334 | 397.64 |
| 274.6(b)(5) | Replacement Card Withheld Notice. | 26.5 | 449.26 | 11,905.5 | 0.0334 | 397.64 |
| 274.6(b)(6) | Excessive Replacement Card Notice. | 26.5 | 449.26 | 11,905.5 | 0.0334 | 397.64 |
| *Subtotal* | | 53 | 673.896 | 35,716.5 | 0.0334 | 1,193 |
| **Affected Public: Households** | | | | | | |
| 274.6(b)(5) | Withhold Replacement Card Warning Notice. | 11,905.5 | 1 | 11,905.5 | 0.3 | 3,571.65 |
| 274.6(b)(5) | Replacement Card Withheld Notice. | 11,905.5 | 1 | 11,905.5 | 0.3 | 3,571.65 |
| *Subtotal* | | 23,811 | 1 | 23,811 | 0.3 | 7,143.30 |
| *Grand Total.* | | 23,864 | 2.494 | 59,527.5 | 0.1400 | 8,336 |

The 8,336 burden hours will be merged with OMB #0584–0064.

Dated: October 28, 2013.

**Audrey Rowe,**

*Administrator, Food and Nutrition Service.*

[FR Doc. 2013–26265 Filed 10–31–13; 8:45 am]

BILLING CODE 3410–30–P

## DEPARTMENT OF AGRICULTURE

### Farm Service Agency

### 7 CFR Parts 761, 762, 765, 766, and 772

**RIN 0560–AI14**

### Farm Loan Programs; Clarification and Improvement

**AGENCY:** Farm Service Agency, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Farm Service Agency (FSA) is amending the Farm Loan Programs (FLP) regulations for loan making and servicing, specifically those on real estate appraisals, leases, subordination and disposition of security, and Conservation Contract requirements. FSA is also streamlining the loan making and servicing process and giving the borrower greater flexibility while protecting the financial interests of the Government.

**DATES:** *Effective* December 16, 2013.

**FOR FURTHER INFORMATION CONTACT:** Michael C. Cumpton, telephone: (202) 690–4014. Persons with disabilities or who require alternative means for communications should contact the USDA Target Center at (202) 720–2600 (voice and TDD).

**SUPPLEMENTARY INFORMATION:**

### Background

This rule follows the FSA proposed rule that was published on April 13, 2012, (77 FR 22444–22462). The rule streamlines the loan making and servicing process for direct and guaranteed FLP loans and gives the borrower greater flexibility while protecting the financial interests of the Government.

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

FSA is amending the FSA regulations for several FLP loan making and servicing issues, including real estate appraisals, leases, disposition, and release of security, and Conservation Contracts.

The overall changes are summarized below followed by a discussion of the individual comment issues and the responses.

FSA is amending various issues related to appraisals. Section 307(d) of the Consolidated Farm and Rural Development Act (CONACT, 7 U.S.C. 1927(d)) requires that in order for FSA

to have the rights to oil, gas, or other minerals as Farm Ownership Loan (FO) loan collateral, the products' value must have been considered in the appraisal. The section only applies to FO loans made after the date of enactment (December 23, 1985), but FSA administratively extended this requirement to any type of FLP loan. FSA is revising the regulations in 7 CFR 761.7, 765.252 and 765.351 to mirror the CONACT by applying the requirement only to FO loans.

FSA is clarifying its regulation in 7 CFR 761.7 on appraisal appeal rights by specifying that the appeal of real estate appraisals used by FSA, other than those used for primary loan servicing, is limited to whether the appraisal is compliant with the Uniform Standards of Professional Appraisal Practice (USPAP). The appellant may submit only a technical appraisal review of the appraisal that has been prepared by a State Certified General Appraiser.

On guaranteed loans, FSA is going to increase the minimum guaranteed amount for which an appraisal is required from $50,000 to $250,000 as specified in 7 CFR 762.127. The lending industry's regulators, such as the Federal Deposit Insurance Corporation and the Farm Credit Administration, currently allow $250,000 as their threshold for business type (agricultural purpose) loans. There is no comparable proposal to raise the limit for direct FSA loans because direct loans typically display more serious financial stress, pose significantly more risk of loss to FSA, and warrant stricter safeguards. For loans of $250,000 or less, lenders may document value in the same manner as for their non-guaranteed loans using, for example, statement of value, tax assessment, and automated valuation model. The security for the loan must still meet the requirements specified in 7 CFR 762.126 to ensure that proper and adequate security is obtained to protect the interests of the lender and FSA. This change will allow lenders to follow industry standards of documenting collateral value.

FSA also is revising 7 CFR 762.127 to allow the use of an appraisal that is more than 12 months old for guaranteed loans greater than $250,000 if market conditions have remained stable, the condition of the property in question is comparable to the time of the appraisal, and the value of the property has remained the same or increased.

FSA is also clarifying 7 CFR 762.127 to state that while a formal appraisal is not necessary for chattel or real estate that will serve as additional security, an estimated value is still required.

FSA is clarifying 7 CFR 762.127(c) to state that real estate appraisals must be completed in accordance with USPAP and that restricted reports as defined in USPAP are not acceptable. Restricted reports are permitted under USPAP, but are not appropriate for credit decisions. Both of these requirements are consistent with the Interagency Appraisal and Evaluation Guidelines (Guidelines) and the existing regulation in 7 CFR 762.127; however, they were not included in the proposed rule. As this clarification is consistent with the Guidelines and existing regulations, additional comments are not necessary.

The terms ''complete'' and ''limited appraisal'' have been determined to be obsolete in the industry so FSA is removing the terms from the regulations in 7 CFR part 762.

FSA is revising and clarifying 7 CFR 765.205(b), 765.252(a), and 765.252(b) to allow consistent treatment of wireless communication leases, mineral leases, and alternative energy projects. The change provides that a lease must not adversely affect FSA's security interest or the successful operation of the farm, and requires FSA review of contracts and agreements related to the lease. The revision will also allow these nonfarm type leases be made for any term, instead of the 3 to 5 year limit in the present regulations.

FSA is expanding the definition of subordination in 7 CFR 761.2(b) to allow for subordinations to be included in leases as companies who want to use real estate security for alternative energy or communication towers often include subordination language in the lease. FSA is amending 7 CFR 765.205(b) to extend subordination authority to include leases when certain conditions are met.

FSA is also amending 7 CFR 765.205(b)(1) to allow a subordination of real estate security to other creditors if the loan will be used to refinance a loan originally made for an authorized loan purpose by FSA or another creditor. This will allow FSA to help an existing borrower refinance a farm loan with an FSA loan. This often happens when a farmer wants to refinance the existing loan because interest rates have fallen.

FSA is changing 7 CFR 765.302 to track only normal income security proceeds that are planned for release or applied to FSA FLP payments instead of attempting real time monitoring of all proceeds. This will be accomplished with the use of an agreement for each production cycle on which the borrower and FSA agree to the use of proceeds that will be used to make payments. To reflect this change to the regulation, FSA is revising the current definition of the agreement for the use of proceeds in 7 CFR 761.2(b). FSA is removing 7 CFR 765.302(b), which provides that an agreement for the use of proceeds is in effect until the proper disposition of all listed chattel security has been accomplished or a new agreement is executed. The duration of the agreement is specified in the agreement itself. FSA is also removing 7 CFR 765.302(h), which requires the borrower to keep records of all dispositions of chattel proceeds, since it goes beyond the scope of the new agreement. However, as the recordkeeping requirement of all chattel proceeds, regardless of use, is still important for annual planning purposes, FSA is incorporating the recordkeeping requirement into 7 CFR 765.301(a).

FSA is amending 7 CFR 765.305 and 765.351(f) to allow the release of some security without compensation for borrowers who have not had primary loan servicing or Disaster Set-Aside within the last 3 years if the loan security margin would be 150 percent or more after the release, and the borrower is graduating, using security for other credit, or transferring small tracts to relatives.

The Conservation Contract Program provides debt cancellation for FLP borrowers in exchange for them taking land out of production for conservation purposes. The changes noted below will reduce the costs to FSA and the burden of administering the Conservation Contract Program while still ensuring the conservation objective is met by clarifying and revising the Conservation Contract Program regulations in 7 CFR 766.110.

There are many instances where land proposed for a Conservation Contract is encumbered by another conservation program for which the borrower receives compensation. These revisions ensure that the land will not be eligible for a Conservation Contract if another conservation program pays the borrower for similar conservation, wildlife, or recreation benefits on the same land. Any portion of the land that is already encumbered by another conservation program would be ineligible for a Conservation Contract.

FSA is clarifying 7 CFR 766.110(m) to specify that FSA will not grant subordinations of Conservation Contracts. This will ensure that the contract is not lost through foreclosure by a lender who obtains a superior lien through a subordination.

FSA is requiring a legal right-of-way or other legal, permanent access to the Conservation Contract property for the life of the Conservation Contract in 7 CFR 766.110(c). A legal right-of-way

that is recorded, in addition to the Conservation Contract, will assure that FSA or the management authority will have access to inspect the property for the life of the Conservation Contract.

FSA is revising 7 CFR 766.110 to require a minimum parcel size of 10 contiguous acres to better manage Conservation Contracts. Establishing a minimum size as a general requirement has minimal adverse effect on the borrowers or FSA, and ensures an adequate size tract to meet conservation purposes.

FSA is implementing new damages for a breach of contract in 7 CFR 766.110. The purpose of the Conservation Contract Program is to place at-risk land under a conservation contract for a set period of time, protect the land, and enhance its conservation, wildlife or recreation value. The consequences of a breach of the Conservation Contract must discourage violations and abuse of the program. Therefore, FSA is requiring any violator to restore damaged or altered areas or, if the land is not restored within 90 days, pay FSA the amount of the debt previously cancelled, plus interest to the date of payment, plus any actual expenses incurred by FSA in enforcing the Conservation Contract, plus a penalty in the amount of 25 percent of the amount of the debt cancelled. In addition, FSA is clarifying that uplands that are eligible for Conservation Contracts include buffer areas necessary to protect the Conservation Contract area as well as the area subject to other conservation programs.

Several technical amendments included in the final rule regarding assessments, payment of interest, and definitions will also be implemented as no comments were received. (See the proposed rule for a description of the technical amendments.)

**Discussion of Comments and Responses**

In response to the proposed rule, 20 comments were submitted by 16 commenters during the 60-day comment period. Comments were submitted by the Hmong National Development, Inc., the American Bankers Association, appraisers, the general public, and FSA employees. The comments addressed multiple provisions of the rule. Many of the comments received during the comment period were supportive, but several had concerns with certain aspects of the proposed rule. Some issues raised in the comments resulted in changes to the regulations.

On some issues comments represented both sides of the issue and sometimes suggested specific changes. For example, half of the comments FSA received related to aspects of the proposal to increase the threshold for requiring an appraisal on guaranteed loans from $50,000 to $250,000. One comment supported the change as proposed, some comments generally supported the increase, but recommended additional conditions or modifications, and several comments were against the increase. The suggested changes and reasons for not making the change are discussed below.

The following provides a summary of the issues in the comments FSA received, the FSA response, and any changes made to the regulations based on the comments.

**Increase Appraisal Threshold for Guaranteed Loans to $250,000**

*Comment:* Increasing the appraisal threshold to $250,000 results in eliminating the independent third party valuation an appraisal provides. That will result in inflated collateral values and increased risk of loss.

*Response:* If a lender would require an appraisal on a non-guaranteed loan even though the transaction was below $250,000, FSA expects the lender to require an appraisal for the guaranteed loan as well. Therefore, FSA is not eliminating a formal evaluation of collateral; it is bringing our requirements in line with normal banking practices. While evaluations may not contain the same supporting documentation and valuation methods as an appraisal, lenders' must use a formal process to estimate and document the property's market value.

In December 2010, the federal banking regulators jointly issued Guidelines that provide federally regulated institutions and examiners clarification on the expectations for prudent appraisal and evaluation policies, procedures, and practices. These Guidelines include regulators' expectations for lenders to establish and follow policies relating to real estate appraisals and evaluations of collateral. Lenders are expected to establish and follow policies defining when an evaluation is appropriate instead of an appraisal and also the methods to be used in conducting and documenting an evaluation of collateral. FSA expects lenders to apply their appraisal and evaluation policies to guaranteed loans in the same manner as non-guaranteed loans.

The Guidelines instruct lenders to define instances in which they would request an appraisal, and include factors such as the transaction's expected loan to value ratio, the borrower's credit risk factors, and the type of property proposed as security. In addition, they address the independence issue by stating that the collateral valuation process should be isolated from influence from the loan production staff. The Guidelines also provide considerable instructions on the content to be included in the evaluations and maintained in the credit file. Again, FSA expects lenders to follow the Guidelines for guaranteed loans.

Regarding the risk of additional losses, FSA does not believe that this increase presents a significant exposure to increased losses. Only 16 percent of FSA's Guaranteed Farm Ownership loan funds are for loans under $250,000. Some of these loans would also be in conjunction with a Direct Farm Ownership loan, which would require a USPAP appraisal. Furthermore, FSA will have an opportunity to examine and consider standard eligible lenders' evaluations before issuing the Guarantee. Given these factors along with the Guidelines lenders are already following, FSA's exposure to additional losses as a result of this change is insignificant.

Because collateral valuations will continue to be adequately supported and reviewed and that there is no significant exposure to additional losses, there will be no change to 7 CFR 762.127(c) in response to this comment.

*Comment:* In many parts of the country, appraisal fees and the timeframes for obtaining an appraisal are not significant issues.

*Response:* State laws vary regarding who is authorized to appraise farm property. In some states, only Certified General Appraisers are permitted to issue appraisals on farmland. While the availability of qualified and authorized real estate appraisers may not be an issue in certain parts of the country, other regions are experiencing a lack of availability and therefore have problems with both timeliness and the cost of an appraisal. This puts FSA customers at a disadvantage when purchasing farmland for under $250,000. These customers are frequently small beginning farmers or Socially Disadvantaged farmers for whom FSA has targeted funds. Delays and additional costs have a greater impact on these operations than they would on larger, more established operations. With this rule change, we are trying to place our applicants on the same footing as the larger, more established farmers.

As indicated above, this will be beneficial to a large number of our most disadvantaged customers, therefore, there will be no change to 7 CFR 762.127(c) in response to this comment.

*Comment:* Lenders are able to manage the additional risk associated with an evaluation rather than an appraisal

through their credit policies, such as lower loan to value ratio (60 to 75 percent). Establish a maximum (75 percent) loan-to-value ratio under which FSA would accept an evaluation, with full collateral value only if an appraisal is obtained.

*Response:* As mentioned above, FSA expects lenders to apply their credit standards on guaranteed loans in the same manner in which they do for their non-guaranteed loans.

The Guidelines direct lenders to consider factors such as loan to value ratios, atypical properties, and borrower's risk characteristics when deciding whether to obtain an appraisal rather than an evaluation; therefore, no change is being made to 7 CFR 762.127(c)(1) in response to this comment. In addition, the sentence included in the proposed rule stating that if an appraisal is completed, it does not have to be USPAP compliant has been removed. That sentence is unnecessary since any collateral valuation completed for loans falling under 7 CFR 762.127(c)(1) will be determined based on an evaluation completed in accordance with the Guidelines or an appraisal completed in accordance with USPAP.

*Comment:* The same appraisal policy should be implemented for direct loans as they are no riskier than guaranteed loans.

*Response:* FSA's history of loan losses and delinquency supports our concern that the direct loan program is indeed riskier than the guaranteed program. Further, with real estate loans, the direct loan regulations permit junior positions on real estate at 100 percent loan to value ratios. With these collateral positions, FSA strongly believes a USPAP appraisal is necessary to support our credit decision. In addition, our direct loan program does not charge the loan applicant for an appraisal and timeliness has not been a significant problem.

Due to these differences in the direct loan program versus the guaranteed program, there will be no change to 7 CFR 764.107(a) in response to this comment.

*Comment:* The proposed appraisal change should apply to unimproved tracts only as valuation of improvements can only be adequately done by a certified appraiser.

*Response:* The Guidelines require lender's credit policies on collateral valuation to address the types of properties on which they would require an appraisal rather than an evaluation of value. These properties would typically include those with a substantial portion of the value coming from improvements, particularly specialized buildings. Since many properties only have a small amount of improvements with minimal contributory value, FSA does not want to prevent those from being valued under the lenders' normal procedures.

Because the current language and lenders' policies adequately address this issue and protect FSA, there will be no change to 7 CFR 762.172(c) in response to this comment.

*Comment:* Since many purchases are jointly made with direct loans, the $250,000 real estate appraisal threshold should be for combined debt for the purchase of real estate or the refinance of debt.

*Response:* When a loan is made in conjunction with a direct loan, FSA will complete an appraisal for its direct loan; therefore, it is unnecessary to establish a different standard for guaranteed loans made jointly with direct.

As this concern is already addressed by current policies, there will be no change to 7 CFR 762.127(c) in response to this comment.

*Comment:* The $250,000 appraisal threshold should be limited to the total outstanding guaranteed loan principal balance at the time of loan closing.

*Response:* Industry standards base the appraisal exception on the particular loan transaction amount rather than total outstanding balances. As previously indicated, our goal is that FSA requirements for guaranteed lenders remain consistent with industry standards.

To ensure FSA requirements retain consistency with industry standards, there will be no change to 7 CFR 762.127(c) in response to this comment.

**Administrative and Technical Reviews of Real Estate Appraisals**

*Comment:* The administrative and technical review of appraisals is a significant and important function of the collateral calculation process that provides a sound level of trust in the process. Reviews protect against government loss and are a key part of sound lending practices. Removing this requirement in 7 CFR 761.7(d) would remove important protections of the program.

*Response:* After a review of the concerns noted above, FSA agrees that important protections against government loss may be harmed by the proposed change.

In response to this comment, 7 CFR 761.7(d) is not being removed.

**Unlimited Term Leases for Non-Farm Property**

*Comment:* FSA should include unused agriculture property, such as milk barns, a vacant house or real farm property located a significant distance from the primary operation or not utilized in the primary operation to the list of property that can be leased for an unlimited term.

*Response:* FSA does not agree with the addition of property that is part of the operation, but located remotely or is not part of the primary operation. Many modern farms are made up of several smaller operations located over a wide area. While these tracts or operations can be a significant distance from the primary operation, they are considered in the farm business plan developed by the borrower and FSA and contribute to the cash flow. FSA does agree with the addition of farm type property that is no longer used as part of the operation or an unused residence.

In response to this comment, we revised § 765.252(a)(2) to include farm property no longer in use, such as old barns. No change will be made in response to the comment suggestion to include real farm property based on distance.

**Tracking of Disposition From Normal Income Proceeds**

*Comments:* Do not make the proposed changes for the disposition of chattel proceeds. The issues with the proposed changes for the disposition of chattel proceeds are:

1. The practical implementation of the proposed change for the disposition of chattel proceeds would be extremely difficult under the statutory and regulatory requirements on notification of potential purchasers. In some Central Filing System (CFS) states, a creditor can file notice of a lien on specific crops or specific types of livestock or the creditor may file a notice covering all crops or all livestock. To change the CFS filing, a creditor must obtain the signature of the farmer on the CFS statement or amendment and pay a fee, so FSA policy is to list all crops and all livestock to decrease the cost and time associated with CFS actions. Farmers routinely rotate crops depending as various factors including expected price, weather conditions, pest and disease problems, etc. so the CFS filing would have to be amended every year resulting in costs and inconvenience for the farmer and FSA.

2. If FSA attempts to limit notifications or CFS filings to only the crop and livestock codes to those commodities that a borrower intends to use to pay the FSA debt, FSA will lose the ability to protect its security interest when borrowers are under financial stress. This problem would be particularly acute when loan accounts

are accelerated (FSA regulations stop the release of security proceeds when an account is accelerated) as the borrower would probably not execute an amendment of the CFS filing to cover all crops.

3. The proposed change for the disposition of chattel proceeds does not effectively address challenges for borrowers with breeding livestock. The determination of whether the sale of a cull cow will be considered basic or normal income security often is made through discussions with the borrower at the time of the sale based on the total number of cows sold and the number of replacements in the herd.

4. Not requiring the farmer to report sales of normal income security that are not intended for payment to FSA provides the borrower with excessive latitude and opportunity to use proceeds in an unacceptable manner. Borrowers could sell crops that should be used to pay operating expenses or make payments to prior lienholders and instead use that money for investment in non-farm business or personal uses without any FSA oversight. This could also cause problems for beginning farmers who are still refining their budgeting and financial management skills and who benefit from additional oversight the current system provides.

5. Reporting and tracking normal income security dispositions are an important aspect of supervised credit and an important tool to help develop sound financial management skills.

*Response:* The concerns regarding the requirement in the law to notify potential purchasers are well founded, and FSA will continue to comply with CFS and potential purchaser notifications in 7 CFR 765.204. However, other tools such as account classification, year-end analysis, graduation reviews, and farm visits can be used to provide adequate credit oversight while still reducing reporting burdens to the greatest extent possible. Administrative guidance will be included in our Farm Loan Program Servicing Handbooks provided used by the field offices. Borrowers will be allowed to operate without submission of all proceeds to FSA to the greatest extent possible.

The above concerns are noted, but we have found that to best achieve FSA's goal of reducing reporting burdens on our borrowers, FSA will not require submission of proceeds beyond what is required by law or needed for repayment of the loan. Other credit management tools can be used as necessary to ensure borrower success and protect FSA's security interests. There will be no change to 7 CFR 765.302 in response to this comment.

*Comment:* The proposed change in § 765.302 to track only normal income security proceeds that are planned to be applied to FLP payments should be tabled until § 765.204, which requires notification of potential purchasers of FSA's lien on a borrower's chattel security, is amended to require notification only when the security is planned for FSA payments or basic security.

*Response:* FSA will continue to comply with CFS and potential purchaser notifications in 7 CFR 765.204, however, this change will allow for greater flexibility in what security is included in the notifications.

As the change will allow us added flexibility while still remaining in compliance there will be no change to 7 CFR 765.302 in response to this comment.

*Comment:* Limit the reduced reporting to borrowers who have had loans outstanding for at least 3 years, have paid the loans timely, and have not had any security accounting transgressions. An option would be to limit the reporting when FSA determines that the value of the basic and normal income security that will continue to be tracked and reported is at least 150 percent of the FSA indebtedness.

*Response:* FSA does not have the authority to curtail notifications to potential purchasers as this requirement is specified in the CONACT (7 U.S.C. 1631), and establishing criteria to implement the new policy on only certain borrowers based on creditworthiness or security would be complex, time consuming, and prone to error or inconsistency.

In order to comply with existing requirements and policies, there will be no change to 7 CFR 765.302 in response to this comment.

**Release of Security Without Compensation**

*Comment:* Add a requirement that the released property will not interfere with access to or operation of the remaining farm. Essential buildings and facilities should not be released as property might not be marketable without them. The requirement should be restricted to approval by the FSA State Executive Director (SED) only and indicate that the report to the SED should include easement issues, legal description, survey issues, environmental concerns, utilities, and if the release could adversely impact the remaining security.

FSA should add Disaster Set-Aside to the requirement that no primary loan servicing has been required for 3 years.

*Response:* After a review, FSA agreed with each of the above comments and determined that their inclusion in the rule would improve the changes.

Based on the comments, these changes have been incorporated into 7 CFR 765.351(f). Both chattel and real estate releases without compensation will require that no Disaster Set-Aside has been in place on the account within the past 3 years. Both chattel and real estate releases without compensation will require SED approval. Real estate releases without compensation will require that access or operation of the remaining farm operation will not be impacted and essential buildings and facilities will not be released if they reduce the utility or marketability of the remaining property.

**Prior Lienholder Subordination to Conservation Contract**

*Comment:* The requirement for a prior lienholder to subordinate their debt in favor of a Conservation Contract will be difficult to accomplish and will make it much harder to participate in the Conservation Contract program. The requirement will cost the prior lienholder time and money, and the prior lienholder might not even want to allow the prior lien under any circumstances. The net result will be that the conservation goals of the program will be diminished.

*Response:* FSA understands that sometimes this requirement could prevent the use of a Conservation Contract to reduce a borrower's debt; however, it is extremely important that the Conservation Contract be protected during the full term. When farm real estate is sold or changes hands by other means, such as foreclosure by a prior lienholder, and the contract can no longer be enforced, taxpayer funds have been wasted with the conservation goal unrealized. While FSA hopes that this does not serve as an impediment to future contracts, it is preferable for real estate in production to continue to comply with its existing conservation requirements instead of losing an easement that has been paid for by the Government.

In order to best uphold the goals of the Conservation Contract program, we are not making a change to 7 CFR 766.110 in response to this comment.

**Executive Order 12866 and 13563**

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

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

The Office of Management and Budget (OMB) designated this rule as not significant under Executive Order 12866 and, therefore, OMB was not required to review this final rule.

**Regulatory Flexibility Act**

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601), FSA is certifying that there would not be a significant economic impact on a substantial number of small entities. All FSA direct loan borrowers and all farm entities affected by this rule are small businesses according to the North American Industry Classification System and the U.S. Small Business Administration. There is no diversity in size of the entities affected by this rule, and the costs to comply with it are the same for all entities.

In this rule, FSA is revising regulations that affect both loan making and loan servicing. FSA does not expect these changes to impose any additional cost to the borrowers, and in fact, FSA expects some Government, borrower, and lender costs could be saved because:

- Third party appraisals could be used in some cases in which FSA currently has to pay for new appraisals that include the mineral's value in real estate appraisals.
- A waiver for some guaranteed loan appraisals will save lenders and guaranteed borrowers the expense of ordering new appraisals when it is not necessary to protect Government interests.
- FSA will allow the release of security for other credit or generational transfers when FSA is very well secured.
- Elimination of double-dipping and strengthening the oversight of the real estate entered into the Conservation Contract program will allow the Government to fairly compensate the owners of the valuable natural resources without the risk of losing usage restrictions which have been paid for by the taxpayers.

Therefore, FSA certifies that this rule will not have a significant economic impact on a substantial number of small entities.

**Environmental Review**

The environmental impacts of this final rule have been considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321–4347), the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and the FSA regulations for compliance with NEPA (7 CFR part 799 and 7 CFR part 1940, subpart G). FSA concluded that the changes to streamline the servicing process and give the borrower greater flexibility explained in this final rule are administrative in nature and will not have a significant impact on the quality of the human environment either individually or cumulatively. The environmental responsibilities for each prospective applicant will not change from the current process followed for all Farm Loan Program actions (7 CFR 1940.309). Therefore, FSA will not prepare an environmental impact statement on this final rule.

**Executive Order 12372**

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

**Executive Order 12988**

This final rule has been reviewed in accordance with Executive Order 12988, ''Civil Justice Reform.'' This rule preempts State and local laws and regulations that are in conflict with this rule. Before any judicial action may be brought concerning the provisions of this rule the administrative appeal provisions of 7 CFR parts 11 and 780 must be exhausted.

**Executive Order 13132**

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

**Executive Order 13175**

This rule has been reviewed for compliance with Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' The Executive Order imposes requirements on the development of regulatory policies that have Tribal implications or preempt Tribal laws. The policies contained in this rule do not impose substantial unreimbursed direct compliance costs on Indian Tribal governments or have Tribal implications that preempt Tribal law. USDA will undertake, within 6 months after this rule becomes effective, a series of regulation Tribal consultation sessions to gain input by Tribal officials concerning the impact of this rule on Tribal governments, communities, and individuals. These sessions will establish a baseline of consultation for future actions, should any become necessary, regarding this rule. Reports from these sessions for consultation will be made part of the USDA annual reporting on Tribal Consultation and Collaboration. USDA will respond in a timely and meaningful manner to all Tribal government requests for consultation concerning this rule and will provide additional venues, such as Webinars and teleconferences, to periodically host collaborative conversations with Tribal leaders and their representatives concerning ways to improve this rule in Indian country.

**Unfunded Mandates**

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA, Pub. L. 1044) requires Federal agencies to assess the effects of their regulatory actions on State, local, or Tribal governments or the private sector. Agencies generally must prepare a written statement, including a cost benefit analysis, for final rule with Federal mandates that may result in expenditures of $100 million or more in any 1 year for State, local, or Tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA, Pub. L. 104–4) for State, local, or Tribal governments, or private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

**Paperwork Reduction Act**

The amendments to the regulations are either revisions of internal operations or modifications to existing responses that will have no net effect on paperwork burden. For example, the new requirement for documentation to permit the use of guaranteed loan appraisals over 12 months old in certain situations is offset by waiving the requirement for a new appraisal in every situation where the current appraisal is more than 12 months old. These changes are associated with the information collection approved under OMB control number 0560–0155, which is in the process of being renewed; the renewal request includes these changes.

The borrower certification regarding double dipping in the Conservation Contract is a statement on an existing form that does not add burden.

Therefore, the amendments for 7 CFR parts 761, 762, 765, 766, and 772 require no new or changes to the information collections currently approved by OMB control numbers of 0560–0155, 0560–0233, 0560–0236, 0560–0237, 0560–0238 and 0560–0230.

**E-Government Act Compliance**

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

**Federal Assistance Programs**

The title and number of the Federal assistance programs, as found in the Catalog of Federal Domestic Assistance, to which this final rule would apply are:

10.099 Conservation Loans;
10.404 Emergency Loans;
10.406 Farm Operating Loans;
10.407 Farm Ownership Loans.

**List of Subjects**

*7 CFR Part 761*

Accounting, Loan programs—agriculture, Rural areas.

*7 CFR Part 762*

Agriculture, Banks, Banking, Credit, Loan programs—agriculture.

*7 CFR Part 765*

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

*7 CFR Part 766*

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

*7 CFR Part 772*

Agriculture, Credit, Loan programs—agriculture, Rural areas.

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

## PART 761—FARM LOAN PROGRAM; GENERAL PROGRAM ADMINISTRATION

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

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

### Subpart A—General Provisions

■ 2. In § 761.2(b), revise the definitions of ''Agreement for the use of proceeds'' and ''Subordination'' to read as follows:

**§ 761.2 Abbreviations and definitions.**

* * * * *

(b) * * * .

*Agreement for the use of proceeds* is an agreement between the borrower and the Agency for each production cycle that reflects the proceeds from the sale of normal income security that will be used to pay scheduled FLP loan installments, including any past due installments, during the production cycle covered by the agreement.

* * * * *

*Subordination* is a creditor's temporary relinquishment of all or a portion of its lien priority to another party providing the other party with a priority lien on the collateral.

* * * * *

■ 3. Amend § 761.7 by revising paragraph (b)(1) and adding paragraphs (b)(3) and (e) to read as follows:

**§ 761.7 Appraisals.**

* * * * *

(b) * * *

(1) Real estate appraisals, technical appraisal reviews and their respective forms must comply with the standards contained in USPAP, as well as applicable Agency regulations and procedures for the specific FLP activity involved. Applicable appraisal procedures and regulations are available for review in each Agency State Office.

* * * * *

(3) For direct FO loans secured by real estate after December 23, 1985, the appraisal must consider the value of oil, gas, and other minerals even if the minerals have no known or nominal value.

* * * * *

(e) *Appraisal appeals.* Challenges to an appraisal used by the Agency are limited as follows:

(1) When an applicant or borrower challenges a real estate appraisal used by the Agency for any loan making or loan servicing decision, except primary loan servicing decisions as specified in § 766.115 of this chapter, the issue for review is limited to whether the appraisal used by the Agency complies with USPAP. The applicant or borrower must submit a technical appraisal review prepared by a State Certified General Appraiser that will be used to determine whether the Agency's appraisal complies with USPAP. The applicant or borrower is responsible for obtaining and paying for the technical appraisal review.

(2) When an applicant or borrower challenges a chattel appraisal used by the Agency for any loan making or loan servicing decision, except for primary loan servicing decisions as specified in § 766.115 of this chapter, the issue for review is limited to whether the appraisal used by the Agency is consistent with present market values of similar items in the area. The applicant or borrower must submit an independent appraisal that will be used to determine whether the appraisal is consistent with present market values of similar items in the area. The applicant or borrower is responsible for obtaining and paying for the independent appraisal.

### Subpart C—Supervised Credit

**§ 761.103 Amended**

■ 4. Amend § 761.103 by removing paragraph (b)(8) and redesignating paragraphs (b)(9), (10), and (11) as paragraphs (b)(8), (9), and (10), respectively.

## PART 762—GUARANTEED FARM LOANS

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

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

**§ 762.120 Amended**

■ 6. Amend § 762.120 as follows:
■ a. In paragraph (a)(2) introductory text, remove the phrase ''and ranch'';
■ b. In paragraphs (k)(3) and (l)(2), remove the phrase ''or ranching''; and
■ c. In paragraph (m), remove the phrase ''or ranchers''.

**§ 762.121 Amended**

■ 7. In § 762.121(a)(1)(v), remove the words ''and ranch''.
■ 8. Revise § 762.127 to read as follows:

**§ 762.127 Appraisal requirements.**

(a) *General.* The general requirements for an appraisal are:

(1) *Value of collateral.* The lender is responsible for ensuring that the value

of chattel and real estate pledged as collateral is sufficient to fully secure the guaranteed loan.

(2) *Additional security.* The lender is not required to complete an appraisal or evaluation of collateral that will serve as additional security, but the lender must provide an estimated value.

(3) *Appraisal cost.* Except for authorized liquidation expenses, the lender is responsible for all appraisal costs, which may be passed on to the borrower or transferee in the case of a transfer and assumption.

(b) *Chattel security.* The requirements for chattel appraisals are:

(1) *Need for chattel appraisal.* A current appraisal (not more than 12 months old) of primary chattel security is required on all loans except loans or lines of credit for annual production purposes secured by crops, which require an appraisal only when the guarantee is requested late in the current production year and actual yields can be reasonably estimated. An appraisal is not required for loans of $50,000 or less if a strong equity position exists.

(2) *Basis of value.* The appraised value of chattel property will be based on public sales of the same or similar property in the market area. In the absence of such public sales, reputable publications reflecting market values may be used.

(3) *Appraisal form.* Appraisal reports may be on the Agency's appraisal of chattel property form or on any other appraisal form containing at least the same information.

(4) *Experience and training.* Chattel appraisals will be performed by appraisers who possess sufficient experience or training to establish market (not retail) values as determined by the Agency.

(c) *Real estate security.* The requirements for real estate appraisals are:

(1) *Loans of $250,000 or less.* The lender must document the value of the real estate by applying the same policies and procedures as their non-guaranteed loans.

(2) *Loans greater than $250,000.* The lender must document the value of real estate using a current appraisal (not more than 12 months old) completed by a State Certified General Appraiser. Real estate appraisals must be completed in accordance with USPAP. Restricted reports as defined in USPAP are not acceptable. The Agency may allow an appraisal more than 12 months old to be used only if documentation provided by the lender reflects each of the following:

(i) Market conditions have remained stable or improved based on sales of similar properties,

(ii) The property in question remains in the same or better condition, and

(iii) The value of the property has remained the same or increased.

(3) Agency determinations under paragraph (c)(2) of this section to permit appraisals more than 12 months old are not appealable.

**§ 762.145 Amended**

■ 9. In 7 CFR part 762, remove the citation ''§ 762.102(b)'', and add ''§ 761.2(b) of this chapter'' in its place.

**§ 762.146 Amended**

■ 10. In § 762.146(b)(1) remove the text ''or ranching'' and in paragraphs (b)(6) and (e)(1), remove the citation ''§ 762.102(b)'' and add citation ''§ 761.2(b) of this chapter'' in its place.

**§ 762.149 Amended**

■ 11. In § 762.149(b)(1)(iii) introductory text, remove the citation ''§ 762.102'' and add the citation ''§ 761.2(b) of this chapter'' in its place.

**§ 762.150 Amended**

■ 12. In § 762.150(b)(5) and (d)(2) remove the text ''and ranchers'' and add the citation ''§ 761.2(b) of this chapter'' in its place.

## PART 765—DIRECT LOAN SERVICING—REGULAR

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

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

## Subpart E—Protecting the Agency's Security Interest

■ 14. In § 765.205, revise paragraphs (b), (c) introductory text, and (c)(1) to read as follows:

**§ 765.205 Subordination of liens.**

* * * * *

(b) *Subordination of real estate security.* For loans secured by real estate, the Agency will approve a request for subordination subject to the following conditions:

(1) If a lender requires that the Agency subordinate its lien position on the borrower's existing property in order for the borrower to acquire new property and the request meets the requirements in paragraph (b)(3) of this section, the request may be approved. The Agency will obtain a valid mortgage and the required lien position on the new property. The Agency will require title clearance and loan closing for the property in accordance with § 764.402 of this chapter.

(2) If the borrower is an entity and the Agency has taken real estate as additional security on property owned by a member, a subordination for any authorized loan purpose may be approved when it meets the requirements in paragraph (b)(3) of this section and it is needed for the entity member to finance a separate farming operation. The subordination must not cause the unpaid principal and interest on the FLP loan to exceed the value of loan security or otherwise adversely affect the security.

(3) The Agency will approve a request for subordination of real estate to a creditor if:

(i) The loan will be used for an authorized loan purpose or is to refinance a loan made for an authorized loan purpose by the Agency or another creditor;

(ii) The credit is essential to the farming operation, and the borrower cannot obtain the credit without a subordination;

(iii) The FLP loan is still adequately secured after the subordination, or the value of the loan security will be increased by an amount at least equal to the advance to be made under the subordination;

(iv) Except as authorized by paragraph (c)(2) of this section, there is no other subordination outstanding with another lender in connection with the same security;

(v) The subordination is limited to a specific amount;

(vi) The loan made in conjunction with the subordination will be closed within a reasonable time and has a definite maturity date;

(vii) If the loan is made in conjunction with a guaranteed loan, the guaranteed loan meets the requirements of § 762.142(c) of this chapter;

(viii) The borrower is not in default or will not be in default on FLP loans by the time the subordination closing is complete;

(ix) The borrower can demonstrate, through a current farm operating plan, the ability to repay all debt payments scheduled, and to be scheduled, during the production cycle;

(x) Except for CL, the borrower is unable to partially or fully graduate;

(xi) The borrower must not be ineligible as a result of a conviction for controlled substances according to part 718 of this chapter;

(xii) The borrower must not be ineligible due to disqualification resulting from Federal crop insurance violation according to part 718 of this chapter;

(xiii) The borrower will not use loan funds in a way that will contribute to

erosion of highly erodible land or conversion of wetlands as described in part 1940, subpart G of this title;

(xiv) Any planned development of real estate security will be performed as directed by the lessor or creditor, as approved by the Agency, and will comply with the terms and conditions of § 761.10 of this chapter;

(xv) If a borrower with an SAA mortgage is refinancing a loan held by a lender, subordination of the SAA mortgage may only be approved when the refinanced loan does not increase the amount of debt; and

(xvi) In the case of a subordination of non-program loan security, the non-program loan security also secures a program loan with the same borrower.

(4) The Agency will approve a request for subordination of real estate to a lessee if the conditions in paragraphs (b)(3)(viii) through (xvi) of this section are met.

(c) *Chattel security.* The requirements for chattel subordinations are as follows:

(1) For loans secured by chattel, the subordination must meet the conditions contained in paragraphs (b)(3)(i) through (xiii) of this section.

* * * * *

## Subpart F—Required Use and Operation of Agency Security

■ 15. Amend § 765.252 as follows:

■ a. Revise paragraphs (a) heading and introductory text, (a)(1), (a)(2), (a)(4), (b)(1), and (b)(2); and

■ b. Add paragraphs (a)(5) and (b)(4).

The revisions and additions read as follows:

### § 765.252 Lease of security.

(a) *Real estate surface leases.* The borrower must request prior approval to lease the surface of real estate security. The Agency will approve requests provided the following conditions are met:

(1) The lease will not adversely affect the Agency's security interest;

(2) The term of consecutive leases for agricultural purposes does not exceed 3 years, or 5 years if the borrower and the lessee are related by blood or marriage. The term of surface leases for farm property no longer in use, such as old barns, or for nonfarm purposes, such as wind turbines, communication towers, or similar installations can be for any term;

* * * * *

(4) The lease does not hinder the future operation or success of the farm, or, if the borrower has ceased to operate the farm, the requirements specified in § 765.253 are met; and

(5) The lease and any contracts or agreements in connection with the lease must be reviewed and approved by the Government.

(b) * * *

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

(2) For all other loans not covered by paragraph (b)(1) of this section, the Agency will obtain a security interest in any oil, gas, and other mineral on or under the real estate pledged as collateral in accordance with the applicable security agreement, regardless of whether such minerals were included in the original appraisal.

* * * * *

(4) The term of the mineral lease is not limited.

* * * * *

### § 765.253 Amended

■ 16. Amend § 765.253 by removing paragraph (d) and redesignating paragraph (e) as paragraph (d).

## Subpart G—Disposal of Chattel Security

■ 17. Revise § 765.301(a) to read as follows:

### § 765.301 General.

(a) The borrower must account for all chattel security, and maintain records of dispositions of chattel security and the actual use of proceeds. The borrower must make these records available to the Agency upon request.

* * * * *

■ 18. Amend § 765.302 as follows:

■ a. Revise paragraph (a);

■ b. Remove paragraphs (b) and (h);

■ c. Redesignate paragraphs (c), (d), (e), (f) and (g) as paragraphs (b), (c), (d), (e) and (f), respectively; and;

■ d. Revise newly redesignated paragraphs (b) through (e).

The revisions read as follows:

### § 765.302 Use and maintenance of the agreement for the use of proceeds.

(a) The borrower and the Agency will execute an agreement for the use of proceeds.

(b) The borrower must report any disposition of basic or normal income security to the Agency as specified in the agreement for the use of proceeds.

(c) If a borrower wants to dispose of normal income security in a way different than provided by the agreement for the use of proceeds, the borrower must obtain the Agency's consent before the disposition unless all FLP payments planned on the agreement have been paid.

(d) If the borrower sells normal income security to a purchaser not listed in the agreement for the use of proceeds, the borrower must immediately notify the Agency of what property has been sold and of the name and business address of the purchaser.

(e) The borrower must provide the Agency with the necessary information to update the agreement for the use of proceeds.

* * * * *

■ 19. Amend § 765.305 by adding paragraph (c) to read as follows:

### § 765.305 Release of security interest.

* * * * *

(c) The Agency will release its lien on chattel security without compensation, upon borrower request provided:

(1) The borrower has not received primary loan servicing or Disaster Set-Aside within the last 3 years;

(2) The borrower will retain the security and use it as collateral for other credit, including partial graduation as specified in § 765.101;

(3) The security margin on each FLP direct loan will be 150 percent or more after the release. The value of the retained and released security will normally be based on appraisals obtained as specified in § 761.7 of this chapter; however, well documented recent sales of similar properties can be used if the Agency determines a supportable decision can be made without current appraisals;

(4) The release is approved by the FSA State Executive Director; and

(5) Except for CL, the borrower is unable to fully graduate as specified in § 765.101.

## Subpart H—Partial Release of Real Estate Security

■ 20. Amend § 765.351 as follows:

■ a. Revise paragraph (a)(3);

■ b. Remove paragraph (a)(4) and redesignate paragraphs (a)(5) through (a)(10) as (a)(4) through (a)(9), respectively;

■ c. Revise paragraph (b)(1)(ii);

■ d. Remove paragraph (b)(1)(iii); and

■ e. Add paragraph (f).

The revisions and additions read as follows:

### § 765.351 Requirements to obtain Agency consent.

* * * * *

(a) * * *

(3) Except for releases in paragraph (f) of this section, the amount received by

the borrower for the security being disposed of, or the rights being granted, is not less than the market value and will be remitted to the lienholders in the order of lien priority;

* * * * *

(b) * * *

(1) * * *

(ii) When the Agency has a security interest in oil, gas, or other minerals as provided by § 765.252(b), the sale of such products will be considered a disposition of a portion of the security by the Agency.

* * * * *

(f) *Release without compensation.* Real estate security may be released by FSA without compensation when the requirements of paragraph (a) of this section, except paragraph (a)(3) of this section, are met, and:

(1) The borrower has not received primary loan servicing or Disaster Set-Aside within the last 3 years;

(2) The security is:

(i) To be retained by the borrower and used as collateral for other credit, including partial graduation as specified in § 765.101; or

(ii) No more than 10 acres, or the minimum size that meets all State and local requirements for a division into a separate legal lot, whichever is greater, and is transferred without compensation to a person who is related to the borrower by blood or marriage.

(3) The property released will not interfere with access to or operation of the remaining farm;

(4) Essential buildings and facilities will not be released if they reduce the utility or marketability of the remaining property;

(5) Any issues arising due to legal descriptions, surveys, environmental concerns, utilities are the borrower's responsibility and no costs or fees will be paid by FSA;

(6) The security margin on each FLP direct loan will be above 150 percent after the release. The value of the retained and released security will normally be based on appraisals obtained as specified in § 761.7 of this chapter; however, well documented recent sales of similar properties can be used if the Agency determines the criteria have been met and a sound decision can be made without current appraisals;

(7) The release is approved by the FSA State Executive Director; and

(8) Except for CL, the borrower is unable to fully graduate as specified in § 765.101.

## PART 766—DIRECT LOAN SERVICING—SPECIAL

■ 21. The authority citation for part 766 continues to read as follows:

**Authority:** 5 U.S.C. 301, 7 U.S.C. 1989, and 1981d(c).

### Subpart C—Loan Servicing Programs

■ 22. Amend § 766.110 as follows:

■ a. Revise paragraphs (a)(6), (b)(2)(vi), (c) introductory text, and (c)(3);

■ b. Add paragraphs (c)(4) through (7);

■ c. Revise paragraph (e);

■ d. Amend paragraph (f), second sentence, by adding the word ''best'' immediately before the word ''interest''; and

■ c. Add paragraphs (m) and (n).

The revisions and additions read as follows:

**§ 766.110 Conservation Contract.**

(a) * * *

(6) Only loans secured by the real estate that will be subject to the Conservation Contract may be considered for debt reduction under this section.

(b) * * *

(2) * * *

(vi) Buffer areas necessary for the adequate protection of proposed Conservation Contract areas, or other areas enrolled in other conservation programs;

* * * * *

(c) *Unsuitable acreage.* Notwithstanding paragraph (b) of this section, acreage is unsuitable for a Conservation Contract if:

* * * * *

(3) The Conservation Contract review team determines that the land does not provide measurable conservation, wildlife, or recreational benefits;

(4) There would be a duplication of benefits as determined by the Conservation Contract review team because the acreage is encumbered under another Federal, State, or local government program for which the borrower has been or is being compensated for conservation, wildlife, or recreation benefits;

(5) The acreage subject to the proposed Conservation Contract is encumbered under a Federal, State, or local government cost share program that is inconsistent with the purposes of the proposed Conservation Contract, or the required practices of the cost share program are not identified in the conservation management plan;

(6) The tract does not contain a legal right of way or other permanent access for the term of the contract that can be used by the Agency or its designee to carry out the contract; or

(7) The tract, including any buffer areas, to be included in a Conservation Contract is less than 10 acres.

* * * * *

(e) *Conservation management plan.* The Agency, with the recommendations of the Conservation Contract review team, is responsible for developing a conservation management plan. The conservation management plan will address the following:

(1) The acres of eligible land and the approximate boundaries, and

(2) A description of the conservation, wildlife, or recreation benefits to be realized.

* * * * *

(m) *Subordination.* For real estate with a Conservation Contract:

(1) Subordination will be required for all liens that are in a prior lien position to the Conservation Contract.

(2) The Agency will not subordinate Conservation Contracts to liens of other lenders or other Governmental entities.

(n) *Breach of Conservation Contract.* If the borrower or a subsequent owner of the land under the Conservation Contract fails to comply with any of its provisions, the Agency will declare the Conservation Contract breached. If the Conservation Contract is breached, the borrower or subsequent owner of the land must restore the land to be in compliance with the Conservation Contract and all terms of the conservation management plan within 90 days. If this cure is not completed, the Agency will take the following actions:

(1) For borrowers who have or had a loan in which debt was exchanged for the Conservation Contract and breach the Conservation Contract, the Agency may reinstate the debt that was cancelled, plus interest to the date of payment at the rate of interest in the promissory note, and assess liquidated damages in the amount of 25 percent of the debt cancelled, plus any actual expenses incurred by the Agency in enforcing the terms of the Conservation Contract. The borrower's account will be considered in non-monetary default; and

(2) Subsequent landowners who breach the Conservation Contract must pay the Agency the amount of the debt cancelled when the contract was executed, plus interest at the non-program interest rate to the date of payment, plus liquidated damages in the amount of 25 percent of the cancelled debt, plus any actual expenses incurred by the Agency in enforcing the terms of the Conservation Contract.

■ 23. Revise § 766.115(a)(1) and (b) to read as follows:

**§ 766.115 Challenging the agency appraisal.**

(a) * * *

(1) Obtain a USPAP compliant technical appraisal review prepared by a State Certified General Appraiser of the Agency's appraisal and provide it to the Agency prior to reconsideration or the appeal hearing;

* * * * *

(b) If the appraised value of the borrower's assets change as a result of the challenge, the Agency will reconsider its previous primary loan servicing decision using the new appraisal value.

* * * * *

■ 24. Revise appendix A to subpart C to read as follows:

**Appendix A to Subpart C of Part 766—FSA–2512, Notice of Availability of Loan Servicing to Borrowers Who Are Current, Financially Distressed, or Less Than 90 Days Past Due**

BILLING CODE 3410–05–P

**This form is available electronically.**

**FSA-2512**
(09-27-11)

**U.S. DEPARTMENT OF AGRICULTURE**
Farm Service Agency

Position 4

**NOTICE OF AVAILABILITY OF LOAN SERVICING TO BORROWERS WHO ARE CURRENT, FINANCIALLY DISTRESSED, OR LESS THAN 90 DAYS PAST DUE**

**Date**

**[Borrower's Name]**
**[Borrower Name/Address]**
**[Borrower Address]**
**[City, State, Zip Code]**

This notice informs you of servicing options that may be available to current borrowers, financially distressed borrowers, or borrowers less than 90 days past due. The Agency's primary loan servicing programs, Conservation Contract Program, Homestead Protection Program, and debt settlement programs may help you resolve your financial distress, repay your loan, retain your farm property or settle your Farm Loan Programs (FLP) debt.

How to apply

To apply, you must complete, where applicable, and provide all items required in paragraph (f).

Help in responding to this notice

The servicing options available to you may become complicated. You may need help to understand them and their impact on your operation. You may want to ask an attorney to help you or there are organizations that give free or low-cost advice to farmers. You may contact your State Department of Agriculture or the U. S. Department of Agriculture (USDA) Extension Service for available services in your State.

**Note:** Agency employees cannot recommend a particular attorney or organization.

Who will decide if you qualify?

After you submit a complete application, the Agency will determine if you meet all eligibility requirements and can develop a farm operating plan that shows that you can pay all debts and expenses.

What happens if you do not apply?

If you do not timely apply to this notice and you become 90 days past due on your loans, the Agency will notify you of available loan servicing by sending you FSA-2510, "Notice of Availability of Loan Servicing to Borrowers Who Are 90 Days Past Due."

Included with this notice you will find information on:

(a) Primary loan servicing programs;
(b) Conservation Contract Program;
(c) Current market value buyout;
(d) Homestead Protection Program;
(e) Debt settlement programs;
(f) Forms, documentation, and information needed to apply;
(g) How to get copies of the Agency's handbooks and forms;
(h) Reconsideration, mediation, negotiation and appeal rights;
(i) The right not to be discriminated against.

**(a) Primary Loan Servicing Programs**

Eligibility

You must meet the following eligibility requirements to obtain primary loan servicing:

(1) You are financially distressed or delinquent due to one of the following circumstances beyond your control:
(i) Illness, injury, or death of a borrower or other individual who operates the farm;
(ii) Natural disaster, adverse weather, disease, or insect damage which caused severe loss of agricultural production;
(iii) Widespread economic conditions such as low commodity prices;
(iv) Damage or destruction of property essential to the farming operation; or
(v) Loss of, or reduction in, your or your spouse's essential non-farm income.

(2) You do not have non-essential assets for which the net recovery value is sufficient to resolve your financial distress. The Agency cannot write down or write off debt that you could pay with the value of your equity in these assets.

(3) If you are in non-monetary default as a result of non-compliance with the Agency's loan agreements, you must resolve the non-monetary default prior to closing the servicing action.

(4) You must have acted in good faith in all past dealings with the Agency and in accordance with your loan agreements.

Time limits

If the Agency determines that you are eligible for primary loan servicing and can develop a feasible plan, you will have 45 days from notice to accept the Agency's offer for loan servicing.

Lien requirements

If you are delinquent, are offered loan servicing, and accept the offer, you must agree to give the Agency a lien on your other assets and you must provide this lien at closing.

Payment of interest

If you are current on your loan payments before the restructure is closed, you must pay a portion of the interest that has accrued on your loans at or before closing the servicing action.

Youth Loans

If you have a Youth Loan, it is not eligible for debt writedown, current market value buyout, or limited resource interest rates, but can be rescheduled or deferred. This has no effect on any other loans you may have with the Agency.

Loan consolidation, rescheduling, and reamortization

In loan consolidation, the unpaid principal and interest of two or more operating loans can be combined into one larger operating loan.

In loan rescheduling, the repayment schedule may be changed to cure the financial distress or delinquency and give you new terms to repay loans made for equipment, livestock, or annual operating purposes.

In loan reamortization, the repayment schedule may be changed to cure the financial distress or delinquency and give you a new schedule of repayment on loans made for real estate purposes.

When loans are consolidated, rescheduled or reamortized the interest rate will be the lesser of:

(1) The interest rate for that type of loan on the date a complete servicing application was received;
(2) The interest rate for that type of loan on the date of restructure; or
(3) The lowest original loan note rate on any of the original notes being restructured.

In addition, the Agency will consider the maximum loan terms.

Limited resource interest rate

Limited resource interest rates are available for certain types of loans. If you have existing loans which are not at the limited resource rate, and a limited resource rate is available, the Agency will consider reducing the rate of the loans. The limited resource interest rate can be as low as five percent, however, this rate may change depending on what it costs the Government to borrow money.

For information about current interest rates, contact this office.

Loan deferral

Partial or full payments of principal and interest may be temporarily delayed for up to 5 years. You will only be considered for loan deferral if the loan servicing programs discussed above will not allow you to pay all essential family living and farm operating expenses, maintain your property, and pay your debts.

You must be able to show through a farm operating plan that you are unable to pay all essential family living and farm operating expenses, maintain your property, and pay your debts. The farm operating plan must also show that you will be able to pay your full installment at the end of the deferral period.

The interest that accrues during the deferral period must be paid in yearly payments for the rest of the loan term after the deferral period ends.

Debt writedown

Debt writedown can reduce the principal and interest on your loan. The Agency offers a writedown only to delinquent borrowers when the loan servicing programs discussed above and the Conservation Contract Program, if requested, will not result in a feasible plan. To receive debt writedown, the value of your restructured loan must be equal to or greater than the recovery value to the Agency from foreclosure and repossession of your security property.

The recovery value is the market value of:

(1) The collateral pledged as security for your FLP loans minus expenses (such as the sale costs, attorneys' fees, management costs, taxes, and payment of prior liens) on the collateral that the Agency would have to pay if it foreclosed, or repossessed, and sold the collateral;
(2) Any collateral that is not in your possession and has not been released for sale by the Agency in writing; and
(3) Any other non-essential assets you may own.

A qualified appraiser determines the value of the collateral and any other assets you own. You may receive a writedown only if you are delinquent on your FLP loan and you have not previously received any form of debt forgiveness on any other FLP direct loan. The maximum amount of debt that can be written down on all direct loans is $300,000.

Shared Appreciation Agreement

If you own real estate and receive a debt writedown, you must sign a Shared Appreciation Agreement. The term of the agreement is 5 years. Under the terms of the agreement you must repay all or a part of the amount written down at the maturity of your Shared Appreciation Agreement if your real estate collateral increased in value.

Payment of shared appreciation will be required prior to the maturity of your Shared Appreciation Agreement if you:

(1) Sell or convey the real estate;
(2) Stop farming;
(3) Pay off your entire FLP debt; or
(4) Have your FLP accounts accelerated by the Agency.

If any of these events occur within the first 4 years of the agreement, you will have to pay 75 percent of the increase in value of the real estate. If any of these events occur after the fourth anniversary of the agreement, or if the Shared Appreciation Agreement matures without having previously been fully triggered, you will have to pay only 50 percent of the increase in value. You will not have to pay more than the amount of the debt written down.

**(b) Conservation Contract Program**

You may request a Conservation Contract to protect highly erodible land, wetlands, or wildlife habitats located on your real estate property that serves as security for your FLP debt. In exchange for such contract, the Agency would reduce your FLP debt. The amount of land left after the contract must be sufficient to continue your farming operation.

**(c) Current Market Value Buyout**

If you are delinquent and the analysis of your debt shows that you cannot achieve a feasible plan even if the present value of your FLP debt is reduced to the value of the security, the Agency may offer you buyout of your FLP debt. You would pay the market value of all FLP security and non-essential assets, minus any prior liens. The market value is determined by a current appraisal completed by a qualified appraiser. In exchange, your loans would be satisfied.

Limits

To receive a current market value buyout offer:

(1) You must not have previously received any form of debt forgiveness from the Agency on any other direct FLP loan;
(2) The maximum debt to be written off with buyout does not exceed $300,000; and
(3) You must not have non-essential assets with a net recovery value sufficient to pay your account current.

Eligibility

To qualify, you must prove that:
(1) You cannot repay your delinquent FLP debt due to circumstances beyond your control; and
(2) You have acted in good faith in all past dealings with the Agency and in accordance with your loan agreements.

Time limits

To buyout your FLP debt at the current market value, you must pay the Agency within 90 days of the date you receive the offer.

Method of payment
To buyout your FLP debt at the current market value, you must pay by cash, cashier's check, or U.S. Treasury check. The Agency will not make or guarantee a loan for this purpose.

**(d) Homestead Protection Program**

Under the Homestead Protection Program, you may repurchase your primary residence, certain outbuildings, and up to 10 acres of land. If you cannot pay cash or Agency financing is not available, you may lease your primary residence. The lease will include an option for you to purchase the property you lease.

This program may apply when primary loan servicing or the Conservation Contract Program are not available or are not accepted.

You must agree to give the Agency title to your land at the time the Agency signs the Homestead Protection Agreement with you. The Agency will compute the costs of taking title including the cost of paying other creditors with outstanding liens on the property. The Agency will take title only if it can obtain a positive recovery.

Eligibility requirements

(1) Your gross annual income from the farming operation must have been similar to other comparable operations in your area in at least two of the last 6 years.
(2) Sixty percent (60%) of your gross annual income in at least two of the last 6 years must have come from the farming operation.
(3) You must have lived in your homestead property for 6 years immediately before your application. If you had to leave for less than 12 months during the 6-year period and you had no control over the circumstances, you may still qualify.
(4) You must be the owner of the property immediately prior to the Agency obtaining title.

Property restrictions and easements

The Agency may place restrictions or easements on your property which restrict your use if the property is located in a special area or has special characteristics. These restrictions and easements will be placed in leases and in deeds on properties containing wetlands, floodplains, endangered species, wild and scenic rivers, historic and cultural properties, coastal barriers, and highly erodible lands.

Leasing the homestead property

(1) You must pay rent to the Agency to lease the property determined eligible for homestead protection. The rent the Agency charges will be similar to comparable property in your area.
(2) You must maintain the property in good condition during the term of the lease.
(3) You may lease the property for up to 5 years but no less than 3 years.
(4) You cannot sublease the property.
(5) If you do not make the rental payments to the Agency, the Agency will cancel the lease and take legal action to force you to leave.
(6) Lease payments are not applied toward the final purchase price of the property.

Purchasing the homestead protection property

You can repurchase your homestead property at market value at any time during the lease. The market value of the property will be decided by a qualified appraiser and will reflect the value of the land after any placement of a restriction or easement such as a wetland conservation easement.

**(e) Debt Settlement Programs**

You can apply for debt settlement at any time; however, these programs are usually used only after it has been determined that primary loan servicing programs and the Conservation Contract Program cannot help you. Under the debt settlement programs, the FLP debt you owe the Agency may be settled for less than the amount you owe. These programs are subject to the discretion of the Agency and are not a matter of entitlement or right. The Agency will not finance these alternatives.

Settlement alternatives

Settlement alternatives include:
(1) Compromise: A lump-sum payment of less than the total FLP debt owed;
(2) Adjustment: Two or more payments of less than the total amount owed to the Agency. Payments can be spread out over a maximum of 5 years if the Agency determines you will be able to make the payments as they become due; and
(3) Cancellation: Satisfaction of Agency debt without payment.

Processing and requirements

If you sell loan collateral, you must apply the proceeds from the sale to your FLP loans before you can be considered for debt settlement. In the case of compromise or adjustment you may keep your collateral, if you pay the Agency the market value of your collateral along with any additional amount the Agency determines you are able to pay.

Debt amounts which are collectible through administrative offset, judgment, or by the Department of the Treasury will not be settled through debt settlement procedures. You must certify that you do not have assets or income in addition to what you stated in your application. If you qualify, your application must also be approved by the State Executive Director or the Administrator, depending on the amount of the debt to be settled.

**(f) Forms, documentation, and information needed to apply**

A complete application for primary loan servicing must include items (1) through (10). Additional information is required as noted if you want to be considered for the Conservation Contract Program or debt settlement programs. If you need help to complete the required forms, you may request an Agency official to assist you. The forms for requirements (1) through (8) and (11) are included with this package.

(1) FSA-2513, "Borrower Response to Notice of the Availability of Loan Servicing – For Borrowers who Received FSA-2512" signed by all borrowers.
(2) FSA-2001, "Request for Direct Loan Assistance."
(3) FSA-2002, "Three Year Financial History" or other financial records, including copies of your income tax returns and any supporting documents, for each of the 3 years immediately preceding the year of application or the years you have been farming, whichever is less and if not already in the Agency case file. If your copies of tax returns are not readily available, you can obtain copies from the Internal Revenue Service.
(4) FSA-2003, "Three Year Production History," or any other format that provides production and expense history for crops, livestock, livestock products, etc., for each of the 3 years immediately preceding the year of application or the years you have been farming, whichever is less and if not already in the Agency case file. You must be able to support this information with farm records.
(5) FSA-2004, "Authorization to Release Information." The Agency will use this form to verify your debts and assets, as well as your non-farm income.
(6) FSA-2005, "Creditor List." The Agency will use this form to verify your debts. Any debts less than $1,000 can be verified by a credit report. If debts of $1,000 or more appear on your credit report and the creditor is not listed on FSA 2005, the application cannot be considered complete.
(7) FSA-2037, "Farm Business Plan Worksheet – Balance Sheet." In the case of an entity, the entity and all entity members must provide current financial statements.
(8) FSA-2038, "Farm Business Plan Worksheet – Projected/Actual Income and Expenses," or other acceptable farm operating plan.
(9) AD-1026, "Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification." You will be required to complete this form if the one you have on file does not reflect all the land you own and lease.
(10) SCS-CPA-026, "Highly Erodible Land and Wetland Conservation Determination." This form must be obtained from and completed by the Natural Resources Conservation Service office, if not already on file with the Agency.
(11) RD 1956-1, "Application for Settlement of Indebtedness." Complete this form only if you wish to apply for debt settlement. You must also comply with any Agency request for additional information needed to process a debt settlement request.
(12) If you are applying for a Conservation Contract, a map or aerial photo of your farm identifying the portion of the land and approximate number of acres to be considered.

Divorced spouses

If you are an FLP borrower who has left the farming operation due to divorce, you may request release of liability. To be released of liability after a divorce, you must present the Agency with the following within 60 days of receiving this notice:
(1) A divorce decree or property settlement document which states the remaining party will be responsible for all repayment to the Agency;
(2) Evidence that you have conveyed your ownership interest in FLP security to the remaining party; and
(3) Evidence that you do not have any repayment ability for the FLP loan through cash, income, or other non-essential assets.

The Agency will make a determination on your request and will inform you of the decision within 60 days of receiving your request.

If you are not released of liability, you will need to include all of your relevant financial information if applying for primary loan servicing, homestead protection, or debt settlement programs.

**(g) How to get copies of Agency handbooks and forms**

Copies of the forms for requirements (f)(1) through (f)(8) and (f)(11) have been included in this package. You may obtain copies of Agency handbooks, which include the pertinent regulations, describing available programs or additional copies of forms from this office.

**(h) Reconsideration, mediation, negotiation, and appeal rights**

Reconsideration, mediation, negotiation, and appeal rights will be provided to you if the Agency makes an adverse decision on your request for loan servicing or prior to acceleration of your account.

Reconsideration

If you are determined by the Agency to be ineligible for loan servicing, or if you cannot develop a feasible plan, you may request a reconsideration meeting with the Agency. You must request reconsideration within 30 days of the date you receive the adverse decision. At a reconsideration meeting, you may present additional information to the Agency and explain why you believe the adverse decision to be in error. If the meeting does not change the Agency decision, you will be notified and provided 30 days to request mediation, negotiation, or appeal as outlined below.

Mediation

Mediation is a process for resolution of a disagreement. A trained neutral mediator assists two or more parties in dispute to look at the issues, consider all available options, and attempt to agree on an acceptable solution. If your State has a mediation program approved by the USDA, the Agency will participate in mediation. If there is no State mediation program, the Agency may help you to set up a meeting with your other creditors. If you wish to request mediation, you must make such request within 30 days of your receipt of an adverse Agency decision. If you request mediation prior to requesting an appeal, the 30-day time period for requesting an appeal will be temporarily suspended. If mediation fails to resolve your dispute with the Agency, only the balance of the 30 days will remain to request an appeal.

Negotiation of the appraisal

If you timely submit a complete application for primary loan servicing, but disagree with the appraisal used by the Agency for processing your primary loan servicing request, you will have 30 days to obtain, at your own expense, an independent appraisal which conforms to published Agency appraisal standards. If this independent appraised value is within five percent of the value of the Agency appraisal, you must choose one of these two appraisals for the Agency to use to continue processing your request. If the appraisals differ by more than five percent, you may request a third appraisal for which you must pay half of the cost, and the average of the two appraisals closest in value is taken as the final appraised value to be used in considering your request. If you wish to request both negotiation of the appraisal and mediation, these should be requested at the same time so the negotiation of the appraisal can be concluded prior to mediation. If not requested at the same time, negotiation of the appraisal must be requested first. Negotiated appraisals are not appealable but other issues can still be appealed after negotiation. If you request negotiation of the appraisal prior to requesting an appeal, the 30-day time period for requesting an appeal will be temporarily suspended. If negotiation of the appraisal fails to resolve your dispute with the Agency, only the balance of the 30-day time frame will remain to request an appeal on issues other than the negotiated appraisal.

Appeal

Appeal is a process under which you present evidence to USDA's National Appeals Division which demonstrates why you believe that the Agency's adverse decision is wrong. Subject to the deadline suspensions discussed above, your request for an appeal must be postmarked no later than 30 days from the date you received the Agency's adverse decision.

**(i) The right not to be discriminated against**

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal agency that administers compliance with this law is the Federal Trade Commission, Equal Credit Opportunity, Washington, D.C. 20580.

The servicing programs described by this Notice are subject to applicable Agency regulations published at 7 CFR Part 766.

For more information or if you have any questions, please contact [this office or the specific office name]at [County Office Address] or telephone [phone number].

| 1A. Authorized Agency Official Name | 1B. Signature | 1C. Title |
|---|---|---|
| | | |

## PART 772—SERVICING MINOR PROGRAM LOANS

■ 25. The authority citation for part 772 continues to read as follows:

**Authority:** 5 U.S.C. 301, 7 U.S.C. 1989, and 25 U.S.C. 490.

### § 772.5 [Amended]

■ 26. Amend § 772.5 as follows:
■ a. In paragraph (c)(1), remove the reference ''7 part 1962, subpart A'' and add the reference ''part 765 of this chapter'' in its place; and
■ b. In paragraph (c)(3), remove the reference ''7 CFR part 1965, subpart A'' and add the reference ''part 765 of this chapter'' in its place.
■ 27. Revise § 772.8(b) to read as follows:

### § 772.8 Sale or exchange of security property.

* * * * *

(b) For IMP loans, a sale or exchange of real estate or chattel that is serving as security must be done as specified in part 765 of this chapter.

Signed on August 27, 2013.

**Juan M. Garcia,**

*Administrator, Farm Service Agency.*

[FR Doc. 2013–25836 Filed 10–31–13; 8:45 am]

BILLING CODE 3410–05–C

## FARM CREDIT ADMINISTRATION

## 12 CFR Part 652

**RIN 3052–AC83**

## Federal Agricultural Mortgage Corporation Funding and Fiscal Affairs; Farmer Mac Liquidity Management

**AGENCY:** Farm Credit Administration.

**ACTION:** Final rule.

**SUMMARY:** The Farm Credit Administration (FCA, we or us) adopts a final rule that amends its liquidity management regulations for the Federal Agricultural Mortgage Corporation (Farmer Mac). The purpose of the final rule is to strengthen liquidity risk management at Farmer Mac, improve the quality of assets in its liquidity reserves, and bolster its ability to fund its obligations and continue operations during times of economic, financial, or market adversity.

**DATES:** This regulation will be effective 180 days after date of publication in the **Federal Register**, provided either or both Houses of Congress are in session for at least 30 calendar days after publication of this regulation in the **Federal Register**. We will publish a notice of the effective date in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Joseph T. Connor, Associate Director for Policy and Analysis, Office of Secondary Market Oversight, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4280, TTY (703)

883–4056; or Richard A. Katz, Senior Counsel, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TTY (703) 883–4020.

**SUPPLEMENTARY INFORMATION:**

## I. Objectives

The objectives of the final rule are to:

- Improve Farmer Mac's capacity to pay its obligations and fund its operations by maintaining adequate liquidity to withstand market disruptions and adverse economic or financial conditions;
- Strengthen liquidity management at Farmer Mac;
- Increase the minimum liquidity reserve requirement for Farmer Mac from 60 to 90 days, and revise how it is computed;
- Require Farmer Mac to hold more high-quality liquid assets in its liquidity reserve; and,
- Require Farmer Mac to hold supplemental liquidity that it can draw upon in an emergency and is sufficient to cover its liquidity needs beyond 90 days.

## II. Background

Congress established Farmer Mac in 1988 as part of its effort to resolve the agricultural crisis of the 1980s. Congress expected that a secondary market for agricultural and rural housing mortgages would increase the availability of competitively priced mortgage credit to America's farmers, ranchers, and rural homeowners.

Striking an appropriate balance between achieving its mission and managing risk is a guiding principle that the FCA follows when it issues regulations for Farmer Mac.[1] Specifically, the intent of this regulation is to allow Farmer Mac sufficient flexibility to fully serve its customers and to provide an appropriate return for investors while ensuring that it engages in safe and sound operations.[2] Our primary supervisory and regulatory objective is to ensure that Farmer Mac will achieve its congressional mandate of increasing the availability of affordable credit for farmers, ranchers, rural homeowners, and rural utilities in a safe and sound manner.

Liquidity is a financial institution's ability to meet its obligations as they come due without substantial negative impact on its operations or financial condition.[3] The availability of an appropriately sized portfolio comprised of highly liquid assets is necessary for Farmer Mac to conduct its business and to achieve its statutory purposes.[4] Although Farmer Mac's liquidity reserve portfolio must contain low and manageable risk, it can appropriately include investments that provide a positive return on the portfolio and still fulfill the investment purposes authorized by regulation under most market conditions.[5]

Liquidity risk is the risk that Farmer Mac could become unable to meet expected obligations and reasonably estimated unexpected obligations as they come due without substantial adverse impact on its operations or financial condition.[6] Reasonably estimated liquidity risk should consider plausible scenarios of debt market disruptions, asset market disruptions (such as industry sector security price risk scenarios), and other contingent liquidity events.[7] Contingent liquidity events could include significant changes in overall economic conditions, events that would impact the market's perception of Farmer Mac,[8] or a broad and significant deterioration in the agriculture sector. We believe that these events could have a potential impact on Farmer Mac's need for cash to fulfill obligations under the terms of products such as Long-Term Standby Purchase Commitments and AgVantage Plus bond guarantees.[9]

## III. History of This Rule

The financial crisis in 2008 caused the FCA to review its regulations governing investments and liquidity for all Farm Credit System (FCS or System) institutions,[10] including Farmer Mac. The FCA commenced this rulemaking to revise its existing regulations pertaining to non-program investments and liquidity at Farmer Mac by publishing an advance notice of proposed rulemaking (ANPRM) on May 19, 2010.[11] After reviewing and considering the comments that we received, we published proposed rule on November 18, 2011.[12] The 60-day comment period ended on January 17, 2012.

By a letter dated April 17, 2013, Farmer Mac asked us to reopen the comment period for 30 days. According to its letter, Farmer Mac ''commenced an evaluation and rebalancing of its investment portfolio in the context of the proposed liquidity requirements'' after the final investment management rule became effective. Farmer Mac claimed that its evaluation exposed possible concerns regarding the proposed liquidity requirements, which in its opinion merited further consideration by the FCA. On May 8, 2013, we reopened the comment period[13] so that all interested parties could bring to our attention issues and concerns that they believe warrant further or heightened FCA scrutiny. The second comment period expired on June 7, 2013.

The proposed rule covered several subjects. The FCA has decided to finalize different proposed regulations separately.[14] On November 5, 2012, the FCA adopted a final rule that amended its investment management regulations.[15] Today, the FCA enacts a final liquidity rule for Farmer Mac. Next, the FCA will adopt a final rule pertaining to eligible investments for Farmer Mac, which will conclude the rulemaking that began in 2010.

The FCA proposed to amend three regulations that apply to liquidity management at Farmer Mac. Proposed § 652.5 contained four definitions pertaining to liquidity. Proposed § 652.35 addressed liquidity management at Farmer Mac. The focus of proposed § 652.35 is board policies that establish internal controls, reporting requirements, and risk management practices, such as the Contingency Funding Plan (CFP) and the Liquidity Maturity Management Plan (LMMP). Effective liquidity management in accordance with proposed § 652.35 ensures that Farmer Mac always maintains adequate liquidity as economic and financial conditions change. Proposed § 652.40 established requirements concerning Farmer Mac's liquidity reserve and supplement liquidity buffer. As proposed, § 652.40 would:

- Increase the minimum days of liquidity in Farmer Mac's liquidity reserve from 60 to 90 days;
- Divide the 90-day liquidity reserve into three tiers so Farmer Mac has a sufficient amount of cash and cash-like instruments available to pay its

[1] *See* 76 FR 71798 (Nov. 18, 2011).

[2] *Id.*

[3] See 76 FR 71798, *supra* at 71799.

[4] *Id.*

[5] *Id.*

[6] *Id.*

[7] *Id.*

[8] For example, reputation risk and legal risk could affect the market's perception of Farmer Mac.

[9] *Id.*

[10] We proposed new liquidity rules for FCS banks in 2011. *See* 76 FR 80817 (Dec. 27, 2011). We adopted the final liquidity rule for these banks earlier this year. *See* 78 FR 23438 (Apr. 18, 2013).

[11] *See* 75 FR 27951 (May 19, 2010).

[12] *See* 76 FR 71798 *supra.*

[13] 78 FR 26711 (May 8, 2013).

[14] One regulation, § 652.5, contains all the definitions that apply to our investment and liquidity regulations for Farmer Mac. Each final rule that we adopt through this extensive rulemaking process will amend different definitions in § 652.5.

[15] 77 FR 66375 (Nov 5, 2012). This final rule amended §§ 652.10, 652.15, 652.25, 652.30 and 652.45.

obligations and fund its operations for next 15 days, and maintain a pool of cash and highly liquid instruments for the both the subsequent 15 days and the 60 days after that; and,

• Require Farmer Mac to hold supplemental liquidity that would provide a longer term, stable source of funding beyond the 90-day minimum liquidity reserve.

Proposed § 652.40 would also specify corrective actions that the FCA could compel Farmer Mac to implement under a reservation of authority.

## IV. Comment Letters

### *A. Overview*

The FCA received comment letters from Farmer Mac and the Farm Credit Council when the initial comment period expired on January 17, 2012. We received another comment letter from Farmer Mac when the second comment period expired on June 7, 2013.

### *B. Comments Received During the First Comment Period*

The Farm Credit Council's comment letter asked us to consider comment letters that it and its members filed in response to other proposed rules concerning investment management and liquidity at FCS banks and associations.[16] According to the commenter, most of the concepts pertaining to investment management and liquidity at FCS banks and associations also apply to Farmer Mac. In this context, the Farm Credit Council ''strongly encouraged'' the FCA to adopt liquidity rules for Farmer Mac that ''more closely mirror the requirements'' for FCS banks. In large measure, the Farm Credit Council asked us to closely align the liquidity regulations for FCS banks and Farmer Mac because it expressed concern that the FCA treats Farmer Mac more favorably than other FCS institutions. We will address this issue in greater detail below.

Both commenters acknowledged that the proposed rule reflects the FCA's intent to strengthen Farmer Mac's safety and soundness. However, they opined that the proposed liquidity rule is overly prescriptive and imposes undue regulatory burden on Farmer Mac. According to the commenters, the proposed rule goes beyond establishing an appropriate regulatory and supervisory framework that ensures that Farmer Mac safely and soundly manages its liquidity. Instead, the commenters claim that the proposed rule imposes the FCA's judgment on business matters that Farmer Mac's board and management should decide.

The commenters raised a number of substantive issues about the proposed liquidity rule, and they recommended specific revisions for the final rule. The main concerns that the commenters expressed are whether:

• The proposed rule is too prescriptive in assigning responsibilities to the board and management for devising and implementing liquidity policies for Farmer Mac;

• The regulation should require Farmer Mac to adopt a new internal LMMP; and,

• The FCA's regulatory approach for liquidity management at both Farmer Mac and FCS banks should be consistent and equitable.

### *C. Comments Received During the Second Comment Period*

During the second comment period, Farmer Mac raised two additional issues. First, Farmer Mac requested that the final regulation allow it to include the portion of loans that it owns and are guaranteed by the United States Department of Agriculture (USDA) in the second and third level of its liquidity reserve. Under the proposed rule, loans guaranteed by USDA would qualify only as supplemental liquidity. Second, Farmer Mac asked the FCA to phase in the new liquidity requirements over a 6-month period after the final rule is published. According to the commenter, the new rule would require Farmer Mac to hold a larger amount of investments for liquidity than it has historically held, and under the circumstances, it would need time to adjust its liquidity portfolio without sacrificing its long-term stability.

## V. The FCA's Approach in the Final Rule

The commenters have not persuaded the FCA that the proposed rule is unduly burdensome or overly prescriptive. Recent financial crises and continuing global economic uncertainty clearly demonstrate that strong liquidity management practices and access to reliable sources of emergency funding are crucial both to the viability of individual financial institutions, including Farmer Mac, and to the financial system as a whole. We proposed substantial revisions to § 652.35 to redress vulnerabilities in liquidity management that we identified in the aftermath of the 2008 crisis.[17] Proposed § 652.40 would require Farmer Mac to retain an adequate liquidity reserve. The purpose of this rulemaking is to strengthen Farmer Mac's ability to withstand future crises by limiting the adverse effects that sudden changes in economic, financial, and market conditions may have on its liquidity. For these reasons, both the proposed and final rules follow the same basic supervisory and regulatory approaches to liquidity.

The commenters offered many constructive and practical suggestions for improving the regulation that we incorporated into the final rule. Based on these comments, we restructured and refined the rule so it is easier to read, understand, and apply. Additionally, the comments caused us to reconsider and revise some our positions. As we explain the final rule and how it differs from our original proposal, we will respond to comments about our overall regulatory and supervisory approach to liquidity as well as specific issues arising from each provision of §§ 652.35 and 652.40, as well as four definitions in § 652.5.

### *A. Core Concepts in the Final Farmer Mac Liquidity Rule*

Our new liquidity regulation for Farmer Mac follows the fundamental concepts of the principle-based approach of the Basel Committee on Banking Supervision (Basel Committee)[18] and the Federal banking agencies.[19] These fundamental concepts apply to Farmer Mac as well as other financial institutions. The comprehensive supervisory approach developed by the Basel Committee and the Federal banking agencies effectively strengthens both the liquidity reserve and the liquidity management practices at financial institutions. The most important features of the framework of

[16] The FCA proposed an investment management rule for FCS banks and associations on August 18, 2011. *See* 76 FR 51289. On December 27, 2011, the FCA proposed to amend its liquidity rule for FCS banks. *See* 76 FR 80817.

[17] *See* 76 FR 71798 (Nov. 18, 2011).

[18] In September 2008, the Basel Committee issued the *Principles for Sound Liquidity Risk Management and Supervision,* which contained 17 core principles detailing international supervisory guidance for sound liquidity risk management. In December, 2010, the Basel Committee issued *Basel III: International framework for liquidity risk measurement, standards, and monitoring (Basel III).*

[19] The Federal banking agencies are the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation (FDIC), and the National Credit Union Administration. The former Office of Thrift Supervision was also a Federal banking agency, and it issued joint guidance about liquidity with the other regulators prior to July 2011. Title III of the Dodd-Frank Wall Street Reform and Consumer Protection Act abolished the Office of Thrift Supervision and transferred its supervisory and regulatory authorities over different institutions the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation. *See* Public Law 111–203, Title III, § 312, 124 Stat. 1376, 1521 (Jul. 21, 2010).

other regulators that we considered and incorporated in this rule pertain to: (1) A multiple-tiered approach to the liquidity reserve that requires institutions keep a sufficient amount of cash and highly liquid investments on hand to pay obligations that fall due in next 15, 30, and 90 days; (2) supplemental liquidity that provides Farmer Mac with a stable source of liquidity over a longer period of time; (3) specific policies and internal controls that combat liquidity risk; and, (4) contingency funding planning based in part on the results of liquidity stress tests. This principle-based approach is comprehensive, yet flexible to apply to all types of financial institutions of varying size, structure, and complexity. This approach is suitable to Farmer Mac's business model and operations, and we anticipate that it will enhance Farmer Mac's liquidity.

Basel III and other guidance from the Federal banking agencies are not the only basis for the new liquidity regulation. The revised regulation also builds upon the Farmer Mac's own initiatives to improve liquidity management as well as the FCA's experiences from examining and regulating liquidity risk management. In the aftermath of the financial crisis in 2008, Farmer Mac, on its own initiative, increased the size and diversity of its investment portfolio. As part of this effort, Farmer Mac reduced its hold limits for certain categories of investments so it would not have too much exposure to concentrations in certain industries or asset classes.

Although both commenters allege that our new liquidity rules for Farmer Mac are too detailed and prescriptive, we observe that these regulations follow the core concepts of the principle-based approach of other regulators as previously discussed. These requirements will place Farmer Mac in a stronger position to endure and outlast future crises that could impede its access to funding. While the commenters may view this approach as too detailed and prescriptive, we conclude that the final rule establishes essential minimum standards from a safety and soundness perspective.

*B. Equitable and Consistent Treatment of Farmer Mac and FCS Banks*

The Farm Credit Council, on behalf of its membership, commented in this and related rulemakings that the FCA's investment and liquidity regulations generally treat Farmer Mac more leniently and favorably than FCS banks and associations. The Farm Credit Council's comment letter expressed support for ''the basic concept that the liquidity standards for Farmer Mac and FCS institutions should essentially be the same,'' and it acknowledged that our regulations strive to achieve this objective. However, the commenter claimed that, ''differences remain between what is proposed for Farmer Mac and what is proposed for FCS institutions.'' From the Farm Credit Council's perspective, the ''differences in business models between Farmer Mac and FCS institutions do not justify the differences in liquidity and investment management rules proposed by the [FCA].'' For these reasons, the commenter encouraged us to revise our rules for Farmer Mac so they ''more closely mirror'' our regulations for other FCS institutions.

Our regulatory and supervisory approach for liquidity is the same for both Farmer Mac and FCS banks. Farmer Mac and FCS banks have different corporate structures, and they offer retail lenders different products for extending credit to agriculture, rural homeowners, and rural utilities. However, Farmer Mac and Farm Credit banks depend on access to market to issue the debt obligations that, for the most part, fund their respective operations. If access to market becomes obstructed during times of economic or financial stress, FCS banks and Farmer Mac must draw on their liquidity reserves to pay their obligations and fund their operations. In this context, inadequate liquidity poses the same challenges and risks to both branches of the System, and it raises the same core safety and soundness concerns for the FCA. Accordingly, we agree with the commenter that the liquidity regulations for Farmer Mac and Farm Credit banks should ''mirror'' each other to the greatest extent possible. We have significantly revised the structure and text of the final liquidity regulations for Farmer Mac so they more closely resemble the final liquidity regulations for Farm Credit banks. We will discuss these conforming changes in greater detail in the Section-by-Section Analysis of this preamble.

The Farm Credit Council claims that Farmer Mac enjoys two advantages over the rest of the System, which it asked us to consider so our final regulations promote equitable and consistent treatment in the markets where Farmer Mac competes with FCS banks and associations. As the commenter points out, Farmer Mac is a publicly traded stock corporation while other FCS institutions are cooperatives. Additionally, Farmer Mac has a line of credit with the Treasury whereas the rest of the FCS has no assured governmental lender of last resort at this time. According to the commenter, ''Farmer Mac enjoys the best of both worlds—private capital that can be traded at fair value and an explicit public backstop.''

From the FCA's perspective, whether organized as a publicly traded stock corporation or organized as cooperative, Farmer Mac and System banks face roughly the same challenges when it comes to market access and managing liquidity risks associated with market disruptions. Both Farmer Mac and Farm Credit banks must maintain adequate high-quality liquidity at all times.

We now respond to the Farm Credit Council's claim that Farmer Mac's authority under section 8.13 of the Act [20] to issue up to $1.5 billion in obligations to the Treasury to cover losses on its guarantees gives it an advantage over FCS banks, which have no assured governmental lender of last resort. According to this statutory provision, Farmer Mac may borrow from the Treasury ''solely for the purpose'' of honoring guarantees of timely payment of principal and interest it provided for securities or obligations backed by pools of qualified loans. Furthermore, section 8.10(c) of the Act prohibits Farmer Mac from issuing obligations to the Treasury until the reserve it maintains to cover losses on its guarantees has been exhausted.

In this context, the authority to borrow from the Treasury is of more value to Farmer Mac in an agricultural credit crisis (resulting in widespread defaults on pools of qualified loans that it has guaranteed) rather than in a liquidity crisis that impedes market access. In all probability, an agricultural credit crisis will unfold over a longer period of time whereas a liquidity crisis may be much more sudden, immediate, and short-term. Farmer Mac could not borrow from the Treasury if economic or financial turmoil outside of the agricultural sector were to obstruct market access as long as it could still honor its guarantees and its reserve is not exhausted. In a scenario such as the 2008 crisis, Farmer Mac's emergency backstop with the Treasury does not give it a competitive advantage over FCS banks.

[20] Section 8.13 of the Act authorizes Farmer Mac to issue obligations to the Secretary of Treasury and use the proceeds solely for the purpose of fulfilling its obligations under any guarantee that Farmer Mac provided under title VIII of the Act. The aggregate amount of Farmer Mac obligations that the Secretary of Treasury may hold at any time shall not exceed $1,500,000,000. Under section 8.13 of the Act, the Secretary of Treasury shall: (1) Set the interest rate that Farmer Mac shall pay on its obligations based on a specific formula; and, (2) require Farmer Mac to repurchase its obligations within a reasonable period of time.

In further response to the commenter, we emphasize that both Farmer Mac and FCS banks must always maintain sufficient liquidity to absorb the impact of market disruptions and economic downturns. Through effective FCA regulation and supervision of the System, both Farmer Mac and FCS banks will be able to reassure investors that they have adequate liquidity to meet their obligations when they are due. New liquidity regulations for both Farmer Mac and System banks bolster their ability to withstand severe economic and financial stress on their own, regardless of whether or not they have an assured governmental lender of last resort. As discussed earlier, these new liquidity regulations are modeled after the principle-based approach of Basel III, but they have been adjusted and calibrated for the unique circumstances and structures of both Farmer Mac and FCS banks. For all these reasons, we conclude that Farmer Mac's authority to borrow from the Treasury does not give it a competitive advantage over FCS banks when it comes to liquidity.

## VI. Section-by-Section Analysis of the Rule

We received no comments about many of the changes that we proposed to §§ 652.35 and 652.40. Except for minor stylistic or technical changes that are explained elsewhere in this preamble, we are finalizing those provisions as proposed without further explanation.

### *A. Section 652.5—Definitions*

We proposed to add definitions for ''Cash,'' ''Contingency Funding Plan,'' ''Liability Maturity Management Plan,'' and ''Liquidity Reserve'' to § 652.5. We received no comments about the last three definitions, and the final rule adopts these definitions as proposed. However, the cross-references in the definitions of ''Contingency Funding Plan'' and ''Liability Maturity Management Plan'' have been changed to reflect the renumbering of the paragraphs in the final § 652.35, which resulted from other changes the commenters requested.

Proposed § 652.5 defined ''cash'' to include ''the insured amount of balances held in deposit accounts at Federal Deposit Insurance Corporation-insured banks.'' Farmer Mac stated that the proposed rule is unclear about how the liquidity rule would treat existing cash balances that Farmer Mac holds in deposit that exceed the deposit insurance limit. We responded to this comment by amending the definition of ''cash'' so it no longer requires bank deposits in Farmer Mac's liquidity portfolio to be insured. As a result, cash held in Farmer Mac's liquidity reserve may include deposits that exceed the amount covered by FDIC insurance. The risk of loss in uninsured deposits generally is low over the short-term. Both § 652.10 and Farmer Mac's fiduciary responsibilities require Farmer Mac to establish appropriate risk limits, including credit quality standards and concentration limits for its investments. Additionally, § 652.10(f)(3) requires Farmer Mac to establish and maintain processes to monitor and evaluate changes in the credit quality of investments and counterparties. Accordingly, both the FCA and Farmer Mac closely monitor the strength and condition of depository institution counterparties where Farmer Mac maintains accounts that exceed the deposit insurance limit.

### *B. Section 652.35—Liquidity Management*

Proposed § 652.35 governs liquidity management at Farmer Mac. The five provisions of proposed § 652.35 addressed: (1) Board responsibility; (2) content of Farmer Mac's liquidity policy; (3) reporting requirements; (4) LMMP; and, (5) CFP. We revised proposed § 652.35 in response to comments from both Farmer Mac and the Farm Credit Council.

#### 1. Section 652.35(a)—Board Responsibilities

Proposed § 652.35(a) addresses the responsibilities of the board of directors for effective liquidity management at Farmer Mac. The FCA proposed only minor changes to existing regulation governing the board's responsibility for Farmer Mac's liquidity reserve policy.[21] Essentially, this regulatory provision would require Farmer Mac's board of directors to adopt a liquidity policy, which may be integrated into a comprehensive asset-liability management or enterprise-wide risk management policy. Under proposed § 652.35(a), the risk tolerance embodied in the liquidity policy must be consistent with the investment management policies required by § 652.10. The next sentence of the proposed rule would require the board to ensure that adequate internal controls are in place so management complies with the board's liquidity policies. Proposed § 652.35(a) would require the board of directors, or a designated committee of the board, at least annually to review and ''affirmatively validate'' the sufficiency of Farmer Mac's liquidity policy. The board of directors must approve any changes to the liquidity policy, and it must provide a copy of its revised liquidity policy to OSMO within 10 business days of adoption.

We received a general comment about proposed § 652.35(a) from Farmer Mac. This commenter reiterated concerns that it expressed in earlier phases of this rulemaking that the new investment management and liquidity regulations should establish broad guidelines for prudent risk management rather than prescribing operational business practices to Farmer Mac. Although the FCA emphasized that the objective of this rulemaking is to establish an appropriate regulatory and supervisory framework to promote Farmer Mac's long-term viability and safety and soundness,[22] the commenter opined that the level of detail in the proposed rule imposes the FCA's business judgments on Farmer Mac's board.

Farmer Mac's comments about board responsibility are broad in scope and general in nature. In fact, Farmer Mac did not offer specific comment about proposed § 652.35(a). Instead, Farmer Mac's comments seem applicable to both § 652.35(a) and § 652.10(a), which addressed board responsibility for investment management.[23] The preamble to the final investment management rule concluded that § 652.10(a) merited only minor, technical, clarifying, and non-substantive changes[24] because it was not overly prescriptive or unduly burdensome. This same reasoning applies here.

We made one revision to proposed § 652.35(a). A sentence in proposed § 652.35(a) would have required ''the board of directors or a designated committee of the board to review and affirmatively validate the sufficiency of the liquidity policy'' at least once a year. The final rule omits the phrase ''affirmatively validate'' from this sentence. This revision addresses concerns by both commenters that regulatory provisions pertaining to board responsibility are overly prescriptive. Additionally, this change aligns the regulatory provisions for FCS banks and Farmer Mac, as the Farm Credit Council requested. We agree with the Farm Credit Council that our regulatory approach pertaining to board responsibility for effective liquidity management at Farmer Mac and FCS

[21] *See* 76 FR 71798, 71810 (Nov. 18, 2011).

[22] *See* 76 FR 71798, 71799 (Nov. 18, 2011).

[23] Farmer Mac's comment letter contained footnotes that referred to passages in the preamble to the proposed rule that addressed investment management practices under § 652.10.

[24] *See* 77 FR 66375, *supra* at 66377.

banks should be consistent. This change to § 652.35(a) mirrors changes that the FCA has already made to §§ 652.10(a) and 615.5134(a), which govern investment management at Farmer Mac and liquidity management at FCS banks, respectively. We refer readers to the preambles to the final investment management rule [25] for Farmer Mac and the final liquidity rule for FCS banks for an in-depth explanation of this revision.[26]

2. Section 652.35(b)—Policy Content

Proposed § 652.35(b) focused on the content of the board's liquidity policies. As the preamble to the proposed rule explained, the FCA planned to recodify an existing regulation, § 652.20(d), as § 652.35(b) with only minor, non-substantive revisions.[27] Proposed § 652.35(b) would require Farmer Mac to address 11 different issues, at a minimum, in its liquidity policies.[28]

The FCA received no specific comments about proposed § 652.35(b). However, comments we received from the Farm Credit Council about parity between the liquidity rules for FCS banks and Farmer Mac, and the LMMP are relevant. Accordingly, we are modifying final § 652.35(b) in response to these comments. First, the final rule omits proposed §§ 652.35(b)(4) and 652.35(b)(11), which respectively require Farmer Mac's liquidity policy to address maturity limits and credit quality standards and the CFP. We eliminated a comparable provision from the final liquidity rule for FCS banks,[29] and the same logic applies to liquidity management at Farmer Mac. A full substantive explanation of our reasons for omitting these provisions from our final regulations is available in the preamble to final liquidity rule for FCS banks.[30]

The final rule also omits proposed § 652.35(b)(10), which would have required the board's liquidity policy to address the LMMP. We decided to streamline our regulatory approach to the LMMP in response to a comment from the Farm Credit Council. Although the FCA has decided to retain the LMMP, the preamble to final § 652.35(e) explains in greater detail below why changes to this regulation establishes an appropriate balance between safeguarding Farmer Mac's safety and soundness, and eliminating unnecessary regulatory burden. A corresponding change is that final § 652.35(b) will no longer require Farmer Mac's board to specifically address the LMMP in its policy.

On our own initiative, we have omitted proposed § 652.35(b)(2) from the final rule. This provision would have required a listing in the board's policy of the specific asset classes and characteristics that could have been used to meet Farmer Mac's liquidity objectives. Although we received no specific comment about proposed § 652.35(b)(2), we have decided to omit this provision from the final rule because it is redundant with final § 652.10(b) and (c), which are provisions of the investment management rule that amply cover board policies for all non-program investments at Farmer Mac. This revision, which streamlines our regulations in part 652, responds to claims by both commenters that ''regulatory layering'' in our investment management and liquidity rules for Farmer Mac results in regulations that are too complicated and burdensome.

The omission of four provisions from the proposed regulation has caused us to renumber the paragraphs of final § 652.35. On our own initiative, we modified proposed § 652.35(b)(7), which has been redesignated as final § 652.35(b)(5). As proposed, this provision would require the board's policy to address exception parameters and ''post'' approvals needed with respect to the liquidity reserve. We omitted the word ''post'' from this provision because such approvals may occur at any time.

3. Section 652.35(c)—Reporting Requirements

Proposed § 652.35(c) recodified, with minor revisions, the existing reporting requirements for Farmer Mac's liquidity portfolio.[31] This provision contains the periodic and special reporting requirements to Farmer Mac's board and special reporting to OSMO.

We received no specific comments about proposed § 652.35(c). We finalize this regulatory provision with only one revision to § 652.35(c)(1)(ii). Whereas proposed § 652.35(c)(1)(ii) would have required management to report any deviations from Farmer Mac's liquidity policy,[32] or failure to meet the board's liquidity target ''immediately'' to the board, the final rule requires management to report such deviations and failures to the board before the end of the quarter if it has the potential to cause material loss. This change is identical to a change to the final liquidity rule for FCS banks,[33] and it responds to the Farm Credit Council's request that the FCA synchronize the investment management and liquidity regulations for Farmer Mac and the rest of the FCS as appropriate. We see no reason for these requirements to differ for FCS banks and Farmer Mac. The preamble to the final liquidity rule for FCS banks explains the substantive reasons for this change,[34] and this same logic applies to Farmer Mac.

4. Section 652.35(d)—LMMP

Proposed § 652.35(d) would require Farmer Mac's board to adopt an LMMP that establishes a funding strategy, which provides for effective diversification of the sources and tenors of funding. Under our proposal, the LMMP must: (1) Include targets of acceptable ranges of the proportion of debt issuances maturing with specific time intervals; (2) reflect the board's liquidity risk tolerance; and, (3) consider components of Farmer Mac's funding strategy that offset or contribute to liquidity risk associated with debt maturity concentrations.

The LMMP is an essential part of funding and liquidity risk management governance because it helps establish targets for the term structure of debt. As the preamble to the proposed rule explained, the purpose of the LMMP is to remedy potential funding instability that could result from relying primarily

[25] *See* 77 FR 66375, 66377 (Nov. 5, 2012).

[26] *See* 78 FR 23438, 23443 (Apr. 18, 2013).

[27] 76 FR 71798 *supra* at 71810. On November 5, 2012, the FCA redesignated existing § 652.20(d) as § 652.35(e) without any change, pending the adoption of final liquidity rules for Farmer Mac. *See* 77 FR 66375, *supra* at 66387–66388.

[28] The 11 issues are: (1) The purpose and objectives of the liquidity reserves; (2) a list of specific asset classes and characteristics that can be used to meet liquidity objectives; (3) diversification requirement for the liquidity reserve portfolio; (4) maturity limits and credit quality standards for non-program investments used to meet the minimum liquidity reserve requirement; (5) the minimum and target amounts of liquidity that are appropriate for Farmer Mac, expressed in days of maturing obligations; (6) the maximum amount of non-program investments that can be held for meeting Farmer Mac's liquidity needs, expressed as a percentage of program assets and program obligations; (7) exception parameters and post approvals needed with respect to the liquidity reserve; (8) delegation of authorities pertaining to the liquidity reserve; (9) reporting requirements which must comply with § 652.35(c); (10) a LMMP, as described in proposed § 652.35(d); and, (11) a CFP, as described in proposed § 652.35(e).

[29] 78 FR 23438 *supra* at 23445.

[30] *Id.* at 23445–46.

[31] These reporting requirements were previously located at § 652.20(f) and (g). On November 5, 2012, the FCA redesignated existing § 652.20(f) and (g) as § 652.35(f) and (g), respectively, without any change, pending the adoption of final liquidity rules for Farmer Mac. *See* 77 FR 66375, *supra* at 66388.

[32] Both the preamble and regulatory text of proposed § 652.35(c)(1)(ii) incorrectly referred to the ''bank's'' liquidity policy. We now correct this inadvertent technical error. The final rule correctly refers to the ''Farmer Mac's'' liquidity policy.

[33] *See* § 615.5134(a)(2)(v) of FCA regulations.

[34] 78 FR 23438 *supra* at 23446.

on shorter term debt—especially when the maturity is extended synthetically,[35] which could expose a financial institution to greater counterparty and refunding risks.

We received a comment about the LMMP from the Farm Credit Council. Although the Farm Credit Council favored an LMMP requirement when it commented on the ANPRM, its comment letter on the proposed rule opposed the LMMP. According to the commenter, the concept of an LMMP is far too complex as a regulatory requirement, and it adds to ''regulatory burden without any clear corresponding benefit.'' The Farm Credit Council suggested that the FCA address the LMMP through supervision, rather than by regulation.

The FCA is not removing the LMMP requirement from the final rule because it enhances Farmer Mac's safety and soundness. As the portion of total debt maturing within a short-term time interval increases, Farmer Mac may experience difficulty in rolling over and re-funding its debt if severe financial or economic stress obstructs its access to market. An effective LMMP should place appropriate limits on Farmer Mac's refunding risk consistent with its board's risk tolerance level as set forth in its liquidity and investment management policies.[36]

Final § 652.35(d) creates an appropriate balance between the commenter's concern that the LMMP requirement is too complex and burdensome, and potential safety and soundness concerns that could arise if Farmer Mac pursued certain funding strategies and practices. The final regulation requires Farmer Mac to have an LMMP that its board of directors reviews and approves at least once each year. Under final § 652.35(d), the LMMP must establish a funding strategy that provides for effective diversification of the sources and tenors of funding, and considers Farmer Mac's risk profile and current market conditions. Additionally, the LMMP must include targets of acceptable ranges of the proportion of debt issuances maturing within specific time periods. We have excluded proposed § 652.35(d)(2) and (d)(3) from the final rule in effort to streamline and simplify our regulations governing investment and liquidity management at Farmer Mac. However, the FCA expects that Farmer Mac will consider the board's liquidity risk tolerance and its funding strategies as it develops liquidity and investment management policies and practices. We have also made minor stylistic changes to enhance the clarity of final § 652.35(d).

5. Section 652.35(d)—Contingency Funding Plan

The purpose of a CFP is to address liquidity shortfalls during market disruptions. Proposed § 652.35(e)(1) would require Farmer Mac to have a CFP that ensures sources of liquidity are sufficient to fund normal operations under a variety of stress events. Under our proposal, the CFP should explicitly cover stress events that could threaten Farmer Mac's liquidity, such as: (1) Market disruptions; (2) rapid increases in contractually required loan purchases; (3) unexpected requirements to fund commitments or revolving lines of credit or to fulfill guarantee obligations; (4) difficulties in renewing or replacing funding with desired terms or structures; (5) requirements to pledge collateral with counterparties; and, (6) reduced access to debt markets as a result of asset quality deterioration (including both program and non-program assets).

Proposed § 652.35(e)(2) would require Farmer Mac's board of directors to review and approve the CFP at least once each year and to make adjustments to reflect changes that result from stress tests, Farmer Mac's risk profile, and market conditions. Additionally, the proposed rule would require Farmer Mac to maintain an adequate level of unencumbered and marketable assets in its liquidity reserve that could readily be converted into cash to meet its net liquidity needs based on estimated cash inflows and outflows for a 30-day time horizon under an acute stress scenario. Contingency funding planning and stress testing are integral parts of effective liquidity risk management governance, which require robust processes for identifying, measuring, monitoring, and controlling liquidity risk. As an integral and critical part of its contingency planning, the FCA expects Farmer Mac to be able to quantitatively project and evaluate its expected funding needs and its available funding sources during plausible, but in some cases acute, stress scenarios.

Proposed § 652.35(e)(3) would require the CFP to address four specific areas that are essential to Farmer Mac's efforts to mitigate its liquidity risk. Taken together, these four areas constitute an emergency preparedness plan that should enable Farmer Mac to effectively cope with a full range of contingency that could endanger its liquidity, solvency, and viability. More specifically, the proposed rule would require the CFP to:

- Be customized to the financial condition and liquidity risk profile of Farmer Mac, the board's liquidity risk tolerance, and Farmer Mac's business model. As such, the CFP should be commensurate with the complexity, risk profile and scope of Farmer Mac's operations;
- Identify funding alternatives that Farmer Mac can implement as its access to funding is reduced. Such funding alternatives, at a minimum, would include collateral pledging arrangements to secure funding and possible initiatives to raise additional capital;
- Establish a process for managing events that imperil Farmer Mac's liquidity. The process would assign appropriate personnel and incorporate executable action plans to implement the CFP; and,
- Mandate periodic stress testing that would analyze the possible impacts on Farmer Mac's cash inflows and outflows, liquidity position, profitability, and solvency under a wide variety of stress scenarios. The board would establish and define stress scenarios that are consistent with stress scenarios in other areas of Farmer Mac's risk analysis, such as investment management and interest rate risk management. The basis for these assumptions underlying the stress tests must be well-reasoned and documented. The rule would also require the stress scenarios to address specific and plausible situations that could undermine Farmer Mac's liquidity.

The FCA received no specific comments about contingency funding planning at Farmer Mac. The rationale for § 652.35(e) is sound because contingency funding planning strengthens Farmer Mac's ability to maintain sufficient liquidity during times of severe economic or financial stress. For this reason, we adopt § 652.35(e) as a final rule without significant change. However, we made organizational, conforming, and stylistic changes to final § 652.35(e) so the CFP regulatory requirements for FCS banks and Farmer Mac are almost identical, as the Farm Credit Council requested. Additionally, these changes address both commenters' concerns that the proposed rule was too prescriptive and imposed unnecessary regulatory burden on Farmer Mac.

First, we streamlined and revised § 652.35(e)(1) to enhance its clarity so it is easier to read and understand. Proposed § 652.35(e)(1) stated that, ''Farmer Mac must have a CFP to ensure

[35] *See* 76 FR 71798 *supra* at 71810.

[36] Not all of the instruments that Farmer Mac deploys to fund (and refund) its obligations are strictly a form of debt because, as noted above, swaps synthetically extend debt tenors to offset liquidity risk.

sources of liquidity are sufficient to fund normal operating requirements under a variety of stress events described in paragraph (e)(3)(iv) of this section.'' We eliminated the cross-reference to § 652.35(e)(3)(iv) and relocated the list of stress events that the CFP must cover to final § 652.35(e)(1). Additionally, the phrase ''normal operating requirements'' has been changed to ''normal operations.'' As revised, final § 652.35(e)(1) is closely aligned to the first two sentences of § 615.5134(f) of FCA regulations, which governs contingency funding planning at FCS banks. The lists of stress events that the CFP covers diverge in these two regulations to reflect the fact that FCS banks engage in wholesale lending while Farmer Mac operates a secondary market.

Second, we reversed the order of the two sentences in § 652.35(e)(2) and revised the wording of this paragraph so it is almost identical with the comparable regulatory provision for FCS banks. Our regulatory approach to contingency funding planning is the same for FCS banks and Farmer Mac. However, discrepancies between the structure and text of proposed § 652.35(e)(2) and the last two sentences of § 615.5134(f) may have inadvertently created the impression that the FCA has different policies and expectations for Farmer Mac and Farm Credit banks. We revised final §652.35(e)(2) so it mirrors the applicable passage in §615.5134(f), which clearly and concisely communicates the core regulatory requirements for the CFP.

We revised § 652.34(e)(3), which identifies the issues that Farmer Mac must address in its CFP. We changed the final word of § 652.35(e)(3)(ii) from ''reduced'' to ''impeded'' because it is a more technically accurate description of Farmer Mac's access to market during a severe crisis.

Finally, we revised § 652.35(e)(3)(iv) so it is virtually identical to the comparable regulatory provision for FCS banks. As amended, final § 652.35(e)(3)(iv) retains only the first sentence of the proposed rule, which requires Farmer Mac to conduct periodic stress testing that analyzes possible impacts of its cash flows, liquidity position, profitability, and solvency for a wide variety of stress scenarios. The next three sentences of proposed § 652.35(e)(3)(iv), which specified the types of stress scenarios and assumptions that Farmer Mac should use for its stress tests, have been omitted from the final rule because they are overly prescriptive. However, these three sentences provide guidance about the scenarios and assumptions that Farmer Mac should consider as it stress tests its exposure to liquidity risks. The final rule also omits the last sentence of proposed § 652.35(e)(3)(iv), which would have allowed the FCA, at its discretion, to require specific stress scenarios in response to changes and market and economic outlooks. This provision is a reservation of authority, which the FCA has excluded from its final liquidity rules for both Farmer Mac and Farm Credit banks.

*C. Section 652.40—Liquidity Reserve Requirement and Supplemental Liquidity*

The FCA proposed to replace § 652.20 with § 652.40, which would strengthen the liquidity reserve requirement for Farmer Mac and require it, for the first time, to hold supplemental liquidity. The purpose of this provision is to ensure that Farmer Mac always has sufficient liquidity to outlast severe economic or financial stress that could obstruct it access to market.

Specifically, proposed § 652.40 would:

- Increase the minimum days of liquidity in Farmer Mac's liquidity reserve from 60 to 90 days;
- Divide the 90-day liquidity reserve into three levels so Farmer Mac's reserves of cash, cash-like instruments, and highly liquid investments are sufficient to pay obligations and fund its operations for the next 15, 30, and 90 days;
- Specify the composition of assets in each level of the liquidity reserve;
- Stipulate the discounts that Farmer Mac should apply to the assets in the liquidity reserve;
- Refine the definitions of ''unencumbered'' and ''marketable'' assets that are suitable for the liquidity reserve; and,
- Require Farmer Mac to maintain supplemental liquidity beyond the 90 days in its liquidity reserve.

Proposed § 652.40 also contained a reservation of authority that would strengthen the FCA's supervisory and regulatory oversight of liquidity management at Farmer Mac. Under this reservation of authority, the FCA could compel Farmer Mac to implement specific corrective actions that would improve liquidity risk management or strengthen its liquidity reserves.

1. Reorganization of Final § 652.40

At the Farm Credit Council's request, we modified and aligned § 652.40 more closely with the final liquidity rule for Farm Credit banks. The structure and format of the liquidity rules for Farmer Mac and Farm Credit banks are not identical because a single regulation governs liquidity at the banks while two regulations, §§ 652.35 and 652.40, separately address liquidity management and the liquidity reserve requirements for Farmer Mac. As explained in greater detail below, both our proposed and final regulations treat supplemental liquidity at Farmer Mac and Farm Credit banks differently. The authorities, business models, and operations of Farmer Mac and FCS banks are different, and Farmer Mac is regulated by a separate office of the FCA as required by the Act, which accounts for certain differences in their liquidity regulations—none of which, we believe, results in material differences in regulatory burden or requirements.

We reorganized the regulation by combining proposed §§ 652.40(a), 652.40(d), and 652.40(e) into single provision, final § 652.40(c). As a result, final § 652.40(c) covers: (1) The core liquidity reserve requirements; (2) supplemental liquidity; (3) the composition of the liquidity reserve; and, (4) the discounts that Farmer Mac will apply to various assets in its liquidity reserve and supplemental liquidity buffer.

As a result of the restructuring of the rule, the definitions of ''unencumbered'' and ''highly marketable'' in proposed § 652.40(b) and (c) have been redesignated as final § 652.40(a) and (b), respectively. We made additional revisions to these two provisions in response to the comments we received.

2. Section 652.40(a)—Unencumbered Investments

We revised the definition of ''unencumbered'' in final § 652.40(a) so it is virtually identical to the same definition in the liquidity regulation for Farm Credit banks. As a result, we split the first sentence in proposed § 652.40(b) into three sentences. The first sentence of the final rule reiterates that all investments that Farmer Mac holds in its liquidity reserve and as supplemental liquidity must be unencumbered. The second sentence of final § 652.40(a) clarifies that an investment is ''unencumbered'' if it is free of lien, and it is not explicitly or implicitly pledged to secure, collateralize, or enhance the credit of any transaction. The third sentence states that unencumbered investments held in the liquidity reserve cannot be used as a hedge against interest rate risk if liquidation of that particular investment would expose Farmer Mac to a material risk of loss. These changes are minor and stylistic, and they do not substantively alter the meaning of this regulatory provision. These changes respond to the Farm Credit Council's

request that final liquidity regulations for Farmer Mac and Farm Credit banks reflect each other to the greatest extent possible.

The proposed rule would have prohibited Farmer Mac from using an unencumbered investment in its liquidity reserve or supplemental liquidity buffer as a hedge against any other exposure. In contrast, final § 652.40(a) is narrower in scope because an unencumbered investment held for liquidity cannot be used as a hedge against interest rate risk if liquidation of that particular investment would expose Farmer Mac to a material risk of loss. We revised this provision to reduce unnecessary regulatory burden on Farmer Mac. From a safety and soundness perspective, Farmer Mac should have flexibility to use unencumbered assets in its liquidity reserve or supplemental liquidity buffer to hedge against other exposures unless such hedges expose it to material risk of loss. Pursuant to § 652.15, interest rate risk is the only other risk that Farmer Mac would hedge against by using assets it holds for liquidity. As a result of this revision, our regulations for Farmer Mac and FCS banks are now consistent on the issue. We refer our readers to the preamble of the final liquidity rule for FCS banks, which contains a comprehensive substantive explanation of the FCA's regulatory approach towards the FCS banks' use of investments in the liquidity reserve to hedge interest risk rate exposures.[37]

3. Section 652.40(b)—Marketable Investments

Proposed § 652.40(c) required all investments that Farmer Mac holds for the purpose of meeting the liquidity reserve requirements to this regulation to be ''highly marketable.'' The proposed rule then articulated four characteristics of a ''highly marketable'' investment, which are: (1) It is easily and immediately convertible to cash with little or no loss in value; (2) low credit and market risk; (3) ease and certainty of valuation; and, (4) except for money market instruments, it is listed on a developed and recognized exchange market and is able to be sold or converted to cash through repurchase agreements in active and sizeable markets.

The Farm Credit Council commented on proposed § 652.40(c). The commenter noted that the description of ''highly marketable'' investments in the proposed rule for Farmer Mac is essentially identical the definition of ''marketable'' investments for FCS banks in § 615.5134(d). The Farm Credit Council expressed concern that ''the choice by FCA to use different terms for these identical concepts could be misunderstood to have significance,'' and it asked us to ''use identical terms when describing identical requirements.'' We agree with the commenter, and, accordingly, final § 652.40(b) requires that Farmer Mac hold ''marketable'' rather than ''highly marketable'' investments to meet its liquidity reserve requirements. Additionally, the text of final § 615.40(b) now refers to investments that are ''readily marketable'' rather than ''highly marketable.'' As a result of these two changes, the title and text of the first paragraph of final § 652.40(b) is virtually identical to § 615.5134(d).

However, the Farm Credit Council deemed this entire provision as too prescriptive and urged us to drop it from the final regulation. The commenter claimed that the definition of ''marketable'' is unworkable and vague because the proposed rule would require that a security must be ''immediately'' convertible to cash with little or no loss in value. According to the Farm Credit Council, the term ''immediately'' has different meanings in different market environments and, therefore, highly liquid Treasury securities would not necessarily sell ''immediately'' during severe market turmoil. We have responded to this comment by substituting ''quickly'' for ''immediately'' in final § 652.40(b)(1). As a result of this change, this provision mirrors § 615.5134(d)(1), which applies the same requirement to FCS banks. As we noted in the preamble to the final rule for Farm Credit banks, the FCA interprets ''quickly'' to mean hours or a few days even during adverse market conditions.[38]

The Farm Credit Council also inquired whether a security that Farmer Mac holds for liquidity must be ''marketable'' at the time of purchase or throughout its life. The commenter expressed uncertainty about whether the proposed rule referred to market value, face value, or some other measurement of value. In response to the commenter's first question, assets held for liquidity must remain marketable during the entire time they are in Farmer Mac's liquidity portfolio. An asset is not marketable for the purposes of this regulation if it does not continuously meet the four criteria in § 652.40(b). Additionally, final § 652.40(b)(1) clearly states that an investment is readily marketable if it can be easily and quickly converted into cash with little or no loss in value. We clarify that the rule generally refers to fair value in response to the Farm Credit Council's second question.

For all these reasons, the FCA disagrees with the Farm Credit Council that the definition of ''marketable'' in final § 652.40(b) is overly prescriptive or imposes unnecessary regulatory burdens on Farmer Mac. Instead, this provision is essential for safety and soundness because it establishes and identifies the basic attributes of assets that Farmer Mac needs for liquidity. Accordingly, we decline the Farm Credit Council's request to drop this provision from the final rule.

4. Section 652.40(c)—Liquidity Reserve, Supplemental Liquidity, and Discounts

Final § 652.40(c) contains the core aspects of our liquidity management regulation. Its provisions: (1) Establish the minimum liquidity reserve requirement for Farmer Mac; (2) identify the investments that compose Farmer Mac's liquidity reserve; (3) address supplemental liquidity; and, (4) specify the discounts for liquid assets held for liquidity. As mentioned above, the FCA has consolidated several provisions of the proposed rule into a single provision that is easier to read and understand. The format of final § 652.40(c) is, in large measure, modeled after the same provision for FCS banks at § 615.5134(b).

Until now, former § 652.35(a) required Farmer Mac to maintain a liquidity reserve equal to at least 60 days of maturing obligations and other borrowings. We proposed to increase the minimum liquidity reserve requirement to 90 days. One commenter supported this change, while the other did not object to it and, therefore, we now adopt it as the first sentence in final § 652.40(c).

The proposed rule would require Farmer Mac to hold supplemental liquid assets to fund obligations and other borrowings maturing after 90 days. We received no comment about supplemental liquidity, and the final rule retains this requirement. However, we condensed three sentences pertaining to supplemental liquidity that were scattered throughout the proposed rule into a single concise statement that is now the second sentence of final § 652.40(c). This change is stylistic rather than substantive.

The FCA proposed to divide the 90-day liquidity reserve into two levels. Under the proposed rule, the first level of the liquidity reserve would provide Farmer Mac with sufficient liquidity to pay it obligations and continue

[37] *See* 78 FR 2323438, *supra* at 23450.

[38] *See* 78 FR 23439 *supra* at 23451.

operations for 30 days if intense economic or financial turmoil impeded market access. Additionally, the proposed rule would have mandated that cash and certain instruments with a final maturity of 3 years or less comprise at least 15 days of the first level of the liquidity reserve. The purpose of this 15-day sublevel is to provide Farmer Mac with enough cash and short-term, highly liquid assets to pay its obligations and fund its operations for 15 consecutive days during a short-term emergency. The second level of the liquidity reserve would enable Farmer Mac to meet its obligations and continue operations for the next 60 days.

Final § 652.40 divides the liquidity reserve into three levels. The first level of the liquidity reserve covers obligations that mature on days 1 through 15. The second level applies to days 16 through 30, while the third level covers days 31 through 90. This revision, which is not substantive, is part of our effort to restructure and reorganize § 652.40 so it is easier to read, understand, and apply. As a result, the final rule more clearly communicates: (1) The exact period of time each level of the liquidity reserve covers; and, (2) which assets Farmer Mac may hold in each level.

The Farm Credit Council commented that the proposed rule is not clear on the actual amount of liquidity that Farmer Mac must hold. We respond that under both the proposed and final rules, the actual dollar amount of liquidity that Farmer Mac must hold is determined by actual amount of obligations maturing in a specific timeframe. Additionally, the LMMP helps determine the tenor of liabilities that Farmer Mac needs in its liquidity portfolio so it has sufficient liquidity to meet its obligations as they fall due.

Changes to the text and format of the final § 652.40(c) clarify that the regulation does not require Farmer Mac to liquidate its most pristine liquid assets, such as cash and short-term United States Treasuries, first during a crisis. Instead, the text above the table in final § 652.40(c) requires Farmer Mac to structure its liquidity reserve so it has sufficient assets of various calibers to meet obligations that mature within each of the specified timeframes. Under the final rule, Farmer Mac must hold a sufficient amount of:

- Level 1 instruments to cover obligations maturing between days 1 and 15;
- Level 1 and 2 instruments to cover obligations maturing between days 16 and 30; and,
- Level 1, 2, and 3 instruments to cover obligations maturing between days 31 and 90.

This change signals that Farmer Mac has discretion to liquidate assets in whatever order best serves its interest as it responds to mounting distress in the markets. We made this revision to the final liquidity regulation for Farm Credit banks in response to two comments we received.[39] This same concept also applies to liquidity management at Farmer Mac, and incorporating it into final § 652.40(c) responds to the Farm Credit Council's request that our regulations treat both branches of the System equally whenever possible.

a. Level 1 of the Liquidity Reserve

The table in proposed § 652.40(c) identified various assets that would comprise Level 1 of Farmer Mac's liquidity reserve. These assets are highly liquid because they are either cash or investments that are high quality, close to their maturity, and marketable. Under the proposed rule, these assets were: (1) Cash; (2) Treasury securities; (3) other Government obligations; (4) Government-sponsored agency securities (excluding mortgage securities) that mature within 60 days; and, (5) Diversified Investment Funds comprised exclusively of Level 1 instruments.

Farmer Mac commented about the assets that we proposed to include in the first level of the liquidity reserve. It requested that we add investments that mature overnight, including overnight repurchase agreements, to the list of investments that qualify for Level 1 of the liquidity reserve. Farmer Mac views overnight investments as one of the most liquid investments available to fund short-term obligations and possibly the most liquid to fund such obligations at a positive spread to the cost of funds.

In response to this comment, we are adding overnight money market investments to the list of highly liquid assets that Farmer Mac may hold in the first 15 days of its liquidity reserve. Overnight money market investments are promptly convertible into cash at their face value and, as a result, these assets have characteristics that are similar to cash.

However, we disagree with Farmer Mac's suggestion that any investment that matures overnight should qualify for Level 1 of the liquidity reserve. A regulatory policy that would automatically include any liquidity investments that mature overnight in Level 1 is simply too broad and not sufficiently cautious. We are aware that valuations, even of impaired assets, migrate to par as they approach maturity. However, given the potential change in liquidity characteristics that various eligible asset classes could take on under stress conditions, we deem such a policy to be imprudent when applied to the entire universe of eligible investments. Not all investments that mature overnight necessarily have the highly liquid characteristics of assets that are suitable for Level 1 of the liquidity reserve. For this reason, we decline Farmer Mac's request that the final rule include every type of investment that matures overnight in Level 1 of the liquidity reserve.

Farmer Mac specifically requested that the final rule allow it to hold overnight repurchase agreements in Level 1 of the liquidity reserve. An overnight repurchase agreement would enable Farmer Mac to obtain cash through a short-term sale of securities, or effectively lend cash through a short-term purchase of securities. Although the cash that Farmer Mac might obtain from the overnight repurchase agreement would certainly qualify as a Level 1 investment, the securities it might obtain through such agreements might not automatically deserve Level 1 designation. Instead, Farmer Mac must judge the liquidity of the securities underlying an overnight repurchase agreement in accordance with the standards and criteria that this regulation establishes for Level 1 investments. The fact that a counterparty is willing to accept certain non-Level 1 securities as part of an overnight repurchase agreement does not mean that they have the liquidity characteristics of a Level 1 investment.

The FCA acknowledges that collateral for repurchase agreements are generally of very good quality. As noted earlier, final § 652.40(b)(4) states that one of the attributes of a ''marketable'' asset is that it ''can be easily sold or converted to cash through repurchase agreements in active and sizable markets without significantly affecting prices.'' During the 2008 crisis, however, many financial institutions discovered that they often could not pledge many types of securities as collateral in the repo markets.

Farmer Mac commented that we should adopt a more flexible approach to the treatment of diversified investment funds (DIFs) in the first level of the liquidity reserve. Under the proposed rule, Farmer Mac could only invest in DIFs comprised exclusively of Level 1 investments. Farmer Mac explained that as a practical matter it would be difficult, if not impossible, to find DIFs that contain only Level 1

[39] *See* 78 FR 23438 *supra* at 23448.

investments. Farmer Mac suggested that DIFs should qualify for Level 1 of the liquidity reserve if they complied with a Securities and Exchange Commission (SEC) regulation, 17 CFR 270.2a–7(c)(2), that establishes portfolio maturity limits for money market funds.[40] According to Farmer Mac, this approach would allow it to maintain its current investment practices toward DIFs while providing sufficient liquidity that would satisfy the FCA's safety and soundness concerns. We agree with the commenter. As revised, final § 652.40(b) allows Farmer Mac to hold DIFs in Level 1 that comply with 17 CFR 270.2a–7(c)(2).

We made several technical and stylistic revisions to the list of Level 1 investments that are found in the table of redesignated § 652.40(c), none of which are substantive. For example, the final rule clarifies that ''cash'' included in Level 1 of the liquidity reserve includes ''cash due from traded but not yet settled debt.'' Additionally, the final rule combined ''Treasury securities'' and ''other Government obligations,'' which appeared in the proposed rule, into ''obligations of the United States.'' The final rule permits Farmer Mac to hold senior debt securities, but not mortgage-backed securities of Government-sponsored agencies in Level 1 of its liquidity reserve. In addition to improving the clarity of the rule, these changes make the substance, text, and structure of the liquidity regulations for Farmer Mac and Farm Credit banks similar.

As revised, final and redesignated § 652.40(c) authorizes Farmer Mac to hold the following investments in Level 1 of its liquidity reserve: (1) Cash, including cash due from traded but not yet settled debt; (2) overnight money market investments; (3) obligations of the United States with a final remaining maturity of 3 years or less; (4) Government-sponsored agency senior debt securities that mature within 60 days, excluding securities of Farmer Mac and other FCS institutions; and, (5) DIFs comprised of Level 1 investments that meet the requirements of 17 CFR 270.2a–7(c)(2). We received no comments on the discounts for Level 1 instruments. Accordingly, we finalize the discounts we proposed but relocated them from the text in proposed § 652.40(e) to the table of final § 652.40(c). The new column heading for discounts in the table specifies that the discounts are to be applied to market values.

b. Level 2 Instruments

As we explained above, the final rule requires Farmer Mac to hold Level 2 instruments that are sufficient to cover obligations that mature between days 16 and 30. Most of the instruments that the final rule consigns to Level 2 were in Level 1 of the proposed rule. Under the final rule, Level 2 investments are: (1) Additional Level 1 investments; (2) obligations of the United States with a final remaining maturity of more than 3 years; (3) mortgage-backed securities that are explicitly backed by the full faith and credit of the United States as to the timely payment of principal and interest; and, (4) DIFs that meet the requirements of 17 CFR 270.2a–7(c)(2), or are composed only of Level 2 instruments. The proposed rule was unclear about whether Ginnie Mae mortgage-backed securities (with a final maturity of more than 3 years) belong in Level 2 of Farmer Mac's liquidity reserve. The final rule clarifies this ambiguity by expressly including mortgage-backed securities that are explicitly backed by the full faith and credit of the United States as Level 2 instruments under the final rule. This is a non-substantive change that makes the liquidity regulations for Farmer Mac and FCS banks consistent on this issue. We received no comments about the discount multiplier for Level 2 instruments. Accordingly, the discount multiplier for Level 2 investments is the same in both the proposed and final rules.

c. Level 3 Instruments

Investments in the liquidity reserve that enable Farmer Mac to pay obligations that mature between days 31 and 90 were designated as Level 2 instrument in the proposed rule but as Level 3 in the final rule. The instruments that comprise this level of the liquidity reserve are the same in both the proposed and final rules. The discount multiplier for instruments in this level is 93 in both the proposed and final rules. We received no comments about the instruments and discounts that we proposed for this level of the liquidity reserve. We adopt our proposal for this provision as a final rule with only minor wording changes that bring into conformity with the liquidity rule for FCS banks.

d. Qualifying Securities Backed by USDA Loans Guarantees

Farmer Mac's comment letter of May 31, 2013, objected to the proposed rule's treatment of qualifying securities backed by Farmer Mac program assets (loans) that are guaranteed by the USDA. Currently, Farmer Mac counts these assets toward its days of liquidity. However, the proposed rule would exclude these qualifying securities from the liquidity reserve but allow Farmer Mac to hold them as supplemental liquidity.

The second comment letter requested that the final regulation allow Farmer Mac to continue to hold the USDA-guaranteed portions of loans it owns in the second and third level of the liquidity reserve. Farmer Mac advised us that these assets are of the highest credit quality because they are fully guaranteed by the USDA and backed by the full faith and credit of the United States. Additionally, Farmer Mac claimed that USDA-guaranteed loans are highly liquid and marketable because they are traded by numerous broker-dealers and banks on an active and sizeable market, and bid-ask spreads are historically narrow. Purchasing and securitizing those portions of loans that are fully guaranteed by the USDA under 7 U.S.C. 1921 *et seq.* is part of Farmer Mac's mandate under title VII of the Act.

Farmer Mac is concerned that it would suffer hardship if the final rule excludes qualifying securities backed by USDA-guaranteed portions of loans it owns from the liquidity reserve. According to Farmer Mac, excluding these assets from the liquidity reserve would force it to ''dramatically upsize its investment portfolio to meet its liquidity requirements'' under the regulation.

In response to Farmer Mac's concerns, the final rule will allow Farmer Mac to hold USDA-guaranteed portions of loans it owns as Farmer Mac II program business in the third level of the liquidity reserve. Our approach in the final rule is consistent with the pre-existing liquidity regulation, which allowed Farmer Mac to hold these assets in its 60-day liquidity reserve. Although these assets are generally high-credit quality, liquid, and marketable, they do not belong in Levels 1 or 2 of the liquidity reserve, which is Farmer Mac's first line of defense in a liquidity crisis. Because securitizing USDA-guaranteed loans is among Farmer Mac's core congressional mandates, these assets are not expected be the first that Farmer Mac liquidates and converts to cash when market access becomes

[40] Under the SEC regulation, a money market fund must maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share or price per share provided that the fund will not: (1) Acquire any instrument with a remaining maturity of greater than 397 days; (2) Maintain a dollar-weighted average portfolio maturity that exceeds 60 calendar days; or (3) Maintain a dollar-weighted average portfolio maturity that exceeds 120 calendar days determined without reference to exceptions in the regulation regarding interest rate readjustments.

obstructed. For this reason, the final rule authorizes Farmer Mac to hold these assets in Level 3 of its liquidity reserve. The final rule also applies the same discount for Level 3 investments to the USDA-guaranteed portion of loans that Farmer Mac owns as Farmer Mac II program business.

e. Supplemental Liquidity

We proposed to strengthen liquidity management at Farmer Mac by introducing the new concept of supplemental liquidity into this regulation. Proposed § 652.40(d) would require Farmer Mac to maintain supplemental liquidity that would provide a longer term, stable source of funding beyond the 90-day minimum liquidity reserve. The supplemental liquidity buffer would complement the 90-day minimum liquidity reserve. The primary purpose of the 90-day minimum liquidity reserve is to furnish a sufficient supply of liquid assets that can be liquidated or converted to cash to meet Farmer Mac's short-term funding needs and outlast an immediate crisis. The supplemental liquidity buffer is designed to enable Farmer Mac to manage its contingency funding needs over a much longer time horizon that encompasses a sustained period of financial or market stress. As such, supplemental liquidity would provide Farmer Mac with an additional cushion of liquidity that should enable it to endure prolonged periods of uncertainty concerning funding.

Under the proposed rule, Farmer Mac would hold supplemental liquid assets that are specific and commensurate with the risks it faces in maintaining stable longer term funding. Supplemental liquidity would be comprised of cash and qualified eligible investments listed in § 652.20. As a result, this regulation would permit Farmer Mac to hold other qualified eligible investments, such as corporate debt and asset-backed securities, in its supplemental liquidity buffer that it might not be able to hold in its liquidity reserve.

Other than Farmer Mac's comment about qualified securities backed by USDA-guaranteed loans, which we addressed above, we received no comments about which assets the final rule should allow Farmer Mac to hold as supplemental liquidity. From a regulatory perspective, all qualified eligible investments listed in § 652.20 are suitable as supplemental liquidity, subject to the liquidity policy of Farmer Mac's board. For this reason, we finalize the provision in proposed § 652.40(c) that permits to hold the qualified eligible investments in § 652.20 for supplemental liquidity.

Under proposed § 652.40(e), an 85-percent discount multiplier applies to all assets in the supplemental liquidity reserve that do not otherwise qualify for the discount levels for assets held in Levels 1, 2, or 3 of the liquidity reserve. We proposed the same discount multiplier for assets that Farm Credit banks hold in their supplemental liquidity buffers. In response to a comment from the Farm Credit Council, we adopted a more lenient 90-percent discount multiplier for supplemental liquidity buffers at FCS banks. Although we received no specific comment about the discount multiplier for supplemental liquidity at Farmer Mac, the Farm Credit Council requested that the FCA apply the same regulatory requirements to both types of GSEs in the System whenever feasible. For this reason, we are changing the discount multiplier for assets that Farmer Mac holds for supplemental liquidity from 85 percent to 90 percent.

f. Reservation of Authority

The FCA proposed to strengthen its supervisory and regulatory oversight of liquidity management at both Farmer Mac and Farm Credit banks by adding a new reservation of authority to these regulations. Under proposed § 652.40(f), the FCA would expressly reserve the right to require Farmer Mac to adjust its treatment of any asset in its liquidity reserve so it always maintains liquidity that is sufficient and commensurate with the risk it faces. In response to strong opposition to the reservation of authority in both rulemakings, the FCA decided to omit it from the final liquidity regulations for both Farmer Mac and FCS banks. The FCA has comprehensive supervisory authority over all FCS institutions, including Farmer Mac. As a result, the FCA through its examination and enforcement authorities can compel Farmer Mac to promptly take specified action to correct deficiencies in the liquidity management practices if internal or external conditions so warrant. Because the FCA can effectively exercise its supervisory authority over Farmer Mac during times of economic, financial, or market adversity, inserting a reservation of authority in this regulation is unnecessary.

g. Effective Date of the Final Rule

In its second comment letter of May 31, 2013, Farmer Mac asked the FCA to phase in the final liquidity rule over a 6-month period after it is published in the **Federal Register**. Farmer Mac advised the FCA that once the new regulation becomes effective, it will need to hold a greater amount of liquid assets in its liquidity portfolio than it historically held. As the size of its liquidity reserve expands from 60 to a minimum of 90 days, Farmer Mac's letter indicates that it needs additional time to stock its liquidity portfolio with highly liquid assets of varying maturities so it will be able to consistently comply with the new regulation. The May 31, 2013 comment letter implies that Farmer Mac will be able to fully comply with this new regulation 6 months after the Board adopts it. Accordingly, the FCA accedes to this request. This regulation will be effective 180 days after date of publication in the **Federal Register**, provided either or both Houses of Congress are in session for at least 30 calendar days after publication of this regulation in the **Federal Register**. We will publish a notice of the effective date in the **Federal Register**.

## VII. Regulatory Flexibility Act

Farmer Mac has assets and annual income in excess of the amounts that would qualify it as a small entity. Therefore, Farmer Mac is not a ''small entity'' as defined in the Regulatory Flexibility Act. Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the FCA hereby certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

## List of Subjects in 12 CFR Part 652

Agriculture, Banks, banking, Capital, Investments, Rural areas.

For the reasons stated in the preamble, part 652 of chapter VI, title 12 of the Code of Federal Regulations is amended as follows:

## PART 652—FEDERAL AGRICULTURAL MORTGAGE CORPORATION FUNDING AND FISCAL AFFAIRS

■ 1. The authority citation for part 652 is revised to read as follows:

**Authority:** Secs. 4.12, 5.9, 5.17, 8.11, 8.31, 8.32, 8.33, 8.34, 8.35, 8.36, 8.37, 8.41 of the Farm Credit Act (12 U.S.C. 2183, 2243, 2252, 2279aa–11, 2279bb, 2279bb–1, 2279bb–2, 2279bb–3, 2279bb–4, 2279bb–5, 2279bb–6, 2279cc); sec. 514 of Pub. L. 102–552, 106 Stat. 4102; sec. 118 of Pub. L. 104–105, 110 Stat. 168; sec. 939A of Pub. L. 11–203, 124 Stat. 1326, 1887 (15 U.S.C. 78o–7 note) (July 21, 2010).

■ 2. Revise § 652.5 to read as follows:

### § 652.5 Definitions.

*Cash* means cash balances held at Federal Reserve Banks, proceeds from traded-but-not-yet-settled debt, and deposit accounts at Federal Deposit Insurance Corporation-insured banks.

*Contingency Funding Plan (CFP)* is described in § 652.35(d)(2).

*Liability Maturity Management Plan (LMMP)* is described in § 652.35(d)(2)(iv).

*Liquidity reserve* is described in § 652.40.

■ 3. Revise § 652.35 to read as follows:

**§ 652.35 Liquidity management.**

(a) *Liquidity policy—board responsibilities.* Farmer Mac's board of directors must adopt a liquidity policy, which may be integrated into a comprehensive asset-liability management or enterprise-wide risk management policy. The risk tolerance embodied in the liquidity policy must be consistent with the investment management policies required by § 652.10 of this subpart. The board must ensure that management uses adequate internal controls to ensure compliance with its liquidity policy. At least annually, the board of directors or a designated committee of the board must review the sufficiency of the liquidity policy. The board of directors must approve any changes to the policy. You must provide a copy of the revised liquidity policy to the OSMO within 10 business days of adoption.

(b) *Policy content.* Your liquidity policy must contain at a minimum the following:

(1) The purpose and objectives of liquidity reserves;

(2) Diversification requirements for your liquidity reserve portfolio;

(3) The minimum and target (or optimum) amounts of liquidity that the board has established for Farmer Mac, expressed in days of maturing obligations;

(4) The maximum amount of non-program investments that can be held for meeting Farmer Mac's liquidity needs, expressed as a percentage of program assets and program obligations;

(5) Exception parameters and approvals needed with respect to the liquidity reserve;

(6) Delegations of authority pertaining to the liquidity reserve;

(7) Reporting requirements which must comply with the requirements under paragraph (c) of this section;

(c) *Reporting requirements.* (1) *Board reporting.* (i) *Periodic.* At least quarterly, Farmer Mac's management must report to Farmer Mac's board of directors or a designated committee of the board describing, at a minimum, the status of Farmer Mac's compliance with board policy and the performance of the liquidity reserve portfolio.

(ii) *Special.* Management must report any deviation from Farmer Mac's liquidity policy, or failure to meet the board's liquidity targets to the board before the end of the quarter if such deviation or failure has the potential to cause material loss.

(2) *OSMO reporting.* Farmer Mac must report, in writing, to the OSMO no later than the next business day following the discovery of any breach of the minimum liquidity reserve requirement in § 652.40 of this subpart.

(d) *Liability maturity management plan.* Farmer Mac must have a liability maturity management plan (LMMP) that its board of directors reviews and approves at least once each year. The LMMP must establish a funding strategy that provides for effective diversification of the sources and tenors of funding, and considers Farmer Mac's risk profile and current market conditions. The LMMP must include targets of acceptable ranges of the proportion of debt maturing within specific time periods.

(e) *Contingency funding plan.* (1) *General.* Farmer Mac must have a CFP to ensure sources of liquidity are sufficient to fund normal operations under a variety of stress events. Such stress events include, but are not limited to market disruptions, rapid increase in contractually required loan purchases, unexpected requirements to fund commitments or revolving lines of credit or to fulfill guarantee obligations, difficulties in renewing or replacing funding with desired terms and structures, requirements to pledge collateral with counterparties, and reduced market access.

(2) *CFP requirements.* Farmer Mac must maintain an adequate level of unencumbered and marketable assets (as defined in § 652.40(a) and (b) of this subpart) in its liquidity reserve that can be converted into cash to meet its net liquidity needs for 30 days based on estimated cash inflows and outflows under an acute stress scenario. The board of directors must review and approve the CFP at least once each year and must make adjustments to reflect changes in the results of stress tests, Farmer Mac's risk profile, and market conditions.

(3) The CFP must:

(i) Be customized to the financial condition and liquidity risk profile of Farmer Mac, the board's liquidity risk tolerance, and Farmer Mac's business model;

(ii) Identify funding alternatives that can be implemented as access to funding is impeded;

(iii) Establish a process for managing events that imperil Farmer Mac's liquidity. The process must assign appropriate personnel and executable action plans to implement the CFP;

(iv) Require periodic stress testing that analyzes the possible impacts on Farmer Mac's cash flows, liquidity position, profitability, and solvency for a wide variety of stress scenarios.

■ 4. Add § 652.40 to read as follows:

**§ 652.40 Liquidity reserve requirement and supplemental liquidity.**

(a) *Unencumbered.* All investments that Farmer Mac holds in its liquidity reserve and as supplemental liquidity in accordance with this section must be unencumbered. For the purposes of this section, an investment is unencumbered if it is free of lien, and it is not explicitly or implicitly pledged to secure, collateralize, or enhance the credit of any transaction. Additionally, an unencumbered investment held in the liquidity reserve cannot be used as a hedge against interest rate risk if liquidation of that particular investment would expose Farmer Mac to a material risk of loss.

(b) *Marketable.* All investments that Farmer Mac holds in its liquidity reserve in accordance with this section must be readily marketable. For purposes of this section, an investment is readily marketable if it:

(1) Can be easily and quickly converted into cash with little or no loss in value;

(2) Exhibits low credit and market risk;

(3) Has ease and certainty of valuation; and,

(4) Except for money market instruments, can be easily sold or converted to cash through repurchase agreements in active and sizable markets without significantly affecting prices.

(c) *Liquidity reserve requirement, supplemental liquidity, and discounts.* Farmer Mac must maintain at all times a liquidity reserve sufficient to fund at least 90 days of the principal portion of maturing obligations and other borrowings. Farmer Mac must also hold supplemental liquid assets sufficient to fund obligations and other borrowings maturing after 90 calendar days to meet board liquidity policy in accordance with § 652.35. At a minimum, Farmer Mac must hold instruments in the liquidity reserve, and as supplemental liquidity, that are listed and discounted in accordance with the following table, and are sufficient to cover:

(1) Days 1 through 15 only with Level 1 instruments;

(2) Days 16 through 30 only with Level 1 and Level 2 instruments; and,

(3) Days 31 through 90 with Level 1, Level 2, and Level 3 instruments.

TABLE TO § 652.40(C)

| Liquidity level | Instruments | Discount (multiply market value by) |
|---|---|---|
| Level 1 | • Cash, including cash due from traded but not yet settled debt | 100 percent. |
| | • Overnight money market instruments, including repurchase agreements secured exclusively by Level 1 investments. | 100 percent. |
| | • Obligations of the United States with a final remaining maturity of 3 years or less. | 97 percent. |
| | • Government-sponsored agency senior debt securities that mature within 60 days, excluding securities issued by the Farm Credit System. | 95 percent. |
| | • Diversified investment funds comprised of cash, overnight money market funds, obligations of the United States, and Government-sponsored agency senior debt securities *provided that* such diversified investment funds meet the requirements of 17 CFR 270.2a–7(c)(2). | 95 percent. |
| Level 2 | • Additional Level 1 investments | Discount for each Level 1 investment applies. |
| | • Obligations of the United States with a final remaining maturity of more than 3 years. | 97 percent. |
| | • Mortgage-backed securities that are explicitly backed by the full faith and credit of the United States as to the timely payment of principal and interest. | 95 percent. |
| | • Diversified investment funds that qualify for Level 1 or are comprised exclusively of Level 2 instruments. | 95 percent. |
| Level 3 | • Additional Level 1 or Level 2 investments | Discount for each Level 1 or Level 2 investment applies. |
| | • Government-sponsored agency senior debt securities with maturities exceeding 60 days, excluding senior debt securities of the Farm Credit System. | 93 percent for all instruments in Level 3. |
| | • Government-sponsored agency mortgage-backed securities that the timely repayment of principal and interest are not explicitly backed by the full faith and credit of the United States, excluding Farmer Mac mortgage-backed securities. | |
| | • Money market instruments maturing within 90 days. | |
| | • Diversified investment funds comprised exclusively of levels 1, 2, and 3 instruments. | |
| | • Qualifying securities backed by Farmer Mac program assets (loans) guaranteed by the United States Department of Agriculture (excluding the portion that would be necessary to satisfy obligations to creditors and equity holders in Farmer Mac II LLC). | |
| Supplemental Liquidity | • Eligible investments under § 652.20 | 90 percent except discounts for Level 1, 2 or 3 investments apply to such investments held as supplemental liquidity. |

Dated: October 25, 2013.

**Mary Alice Donner,**

*Acting Secretary, Farm Credit Administration Board.*

[FR Doc. 2013–25918 Filed 10–31–13; 8:45 am]

BILLING CODE 6705–01–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Parts 34 and 45

**[Docket No.: FAA–2012–1333; Amendment No. 34–5A]**

**RIN 2120–AK15**

### Exhaust Emission Standards for New Aircraft Turbine Engines and Identification Plate for Aircraft Engines

*Correction*

In rule document 2013–24712, appearing on pages 63015–63017 in the issue of Wednesday, October 23, 2013, make the following correction:

**§ 34.23 [Corrected]**

■ On page 63017, in the Table titled ''Tier 6 Oxides of Nitrogen Emission Standards for Subsonic Engines'', in the third column, in the last row, the entry ''rO > 26.7'' is corrected to read ''rO ≥ 26.7''.

[FR Doc. C1–2013–24712 Filed 10–31–13; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 71

**[Docket No. FAA–2013–0533; Airspace Docket No. 13–ANM–19]**

### Establishment of Class E Airspace; Rome, OR

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

**ACTION:** Final rule.

**SUMMARY:** This action establishes Class E airspace at the Rome VHF Omni-Directional Radio Range/Distance Measuring Equipment (VOR/DME)

navigation aid, Rome, OR, to facilitate vectoring of Instrument Flight Rules (IFR) aircraft under control of Salt Lake City, Oakland and Seattle Air Route Traffic Control Centers (ARTCCs). This improves the safety and management of IFR operations within the National Airspace System.

**DATES:** Effective date, 0901 UTC, February 6, 2014. The Director of the Federal Register approves this incorporation by reference action under 1 CFR Part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

**FOR FURTHER INFORMATION CONTACT:** Eldon Taylor, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4537.

**SUPPLEMENTARY INFORMATION:**

### History

On July 29, 2013, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to establish controlled airspace at Rome, OR (78 FR 45475). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. One comment was received from the National Business Aviation Association (NBAA) supporting the establishment of Class E en route airspace.

Class E airspace designations are published in paragraph 6006, of FAA Order 7400.9X dated August 7, 2013, and effective September 15, 2013, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in that Order.

### The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by establishing Class E en route domestic airspace extending upward from 1,200 feet above the surface, at the Rome VOR/DME navigation aid, Rome, OR, to accommodate IFR aircraft under control of Salt Lake City, Oakland and Seattle ARTCCs by vectoring aircraft from en route airspace to terminal areas. This action is necessary for the safety and management of IFR operations.

The FAA has determined this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 discusses the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes controlled airspace at the Rome VOR/DME, Rome, OR

### Environmental Review

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

### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

### Adoption of the Amendment

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

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

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

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

### § 71.1 [Amended]

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

*Paragraph 6006 En route domestic airspace areas.*

* * * * *

**ANM OR E6 Rome, OR [New]**

Rome VOR/DME, OR

(Lat. 42°35′26″ N., long. 117°52′05″ W.)

That airspace extending upward from 1,200 feet above the surface within an area bounded by lat. 45°50′06″ N., long. 117°05′33″ W.; to lat. 45°13′00″ N., long. 117°05′42″ W.; to lat. 45°07′42″ N., long. 116°18′03″ W.; to lat. 44°15′42″ N., long. 116°19′34″ W.; to lat. 44°03′18″ N., long. 117°05′05″ W.; to lat. 43°07′42″ N., long. 116°44′08″ W.; to lat. 42°25′53″ N., long. 116°03′43″ W.; to lat. 42°26′27″ N., long. 114°57′44″ W.; to lat. 42°00′00″ N., long. 114°42′42″ W.; to lat. 41°08′22″ N., long. 114°57′44″ W.; to lat. 40°04′38″ N., long. 118°49′42″ W.; to lat. 40°45′47″ N., long. 120°14′45″ W.; to lat. 42°39′54″ N., long. 119°42′02″ W.; to lat. 43°41′51″ N., long. 120°00′19″ W.; to lat. 45°09′13″ N., long. 119°01′43″ W.; to lat. 45°49′52″ N., long. 118°02′34″ W., thence to the point of beginning.

Issued in Seattle, Washington, on October 23, 2013.

**Clark Desing,**

*Manager, Operations Support Group, Western Service Center.*

[FR Doc. 2013–25977 Filed 10–31–13; 8:45 am]

BILLING CODE 4910–13–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Docket No. FAA–2013–0531; Airspace Docket No. 13–ANM–20]**

## Establishment of Class E Airspace; Salmon, ID

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

**ACTION:** Final rule.

**SUMMARY:** This action establishes Class E airspace at the Salmon VHF Omni-Directional Radio Range/Distance Measuring Equipment (VOR/DME) navigation aid, Salmon, ID, to facilitate vectoring of Instrument Flight Rules (IFR) aircraft under control of Salt Lake City and Seattle Air Route Traffic Control Centers (ARTCCs). This improves the safety and management of IFR operations within the National Airspace System.

**DATES:** Effective date, 0901 UTC, February 6, 2014. The Director of the Federal Register approves this incorporation by reference action under

1 CFR Part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

**FOR FURTHER INFORMATION CONTACT:** Eldon Taylor, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4537.

**SUPPLEMENTARY INFORMATION:**

### History

On July 29, 2013, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to establish controlled airspace at Salmon, ID (78 FR 45478). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. One comment was received from the National Business Aviation Association (NBAA) supporting the establishment of Class E en route airspace.

Class E airspace designations are published in paragraph 6006, of FAA Order 7400.9X dated August 7, 2013, and effective September 15, 2013, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in that Order.

### The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by establishing Class E en route domestic airspace extending upward from 1,200 feet above the surface, at the Salmon VOR/DME navigation aid, Salmon, ID, to accommodate IFR aircraft under control of Salt Lake City and Seattle ARTCCs by vectoring aircraft from en route airspace to terminal areas. This action is necessary for the safety and management of IFR operations.

The FAA has determined this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 discusses the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes controlled airspace at the Salmon VOR/DME, Salmon, ID.

### Environmental Review

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

### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air)

### Adoption of the Amendment

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

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

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

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

### § 71.1 [Amended]

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

*Paragraph 6006 En route domestic airspace areas.*

* * * * *

**ANM ID E6 Salmon, ID [New]**

Salmon VOR/DME, ID

(Lat. 45°01′17″ N., long. 114°05′03″ W.)

That airspace extending upward from 1,200 feet above the surface within an area bounded by lat. 45°50′06″ N., long. 117°05′33″ W.; to lat. 45°50′00″ N., long. 115°45′00″ W.; to lat. 46°40′00″ N., long. 115°45′00″ W.; to lat. 46°40′00″ N., long. 115°00′00″ W.; to lat. 46°02′00″ N., long. 115°00′00″ W.; to lat. 46°02′00″ N., long. 113°20′00″ W.; to lat. 45°51′00″ N., long. 113°07′00″ W.; to lat. 45°35′00″ N., long. 113°25′00″ W.; to lat. 45°01′02″ N., long. 113°30′00″ W.; to lat. 44°44′30″ N., long. 113°13′20″ W.; to lat. 44°38′18″ N., long. 112°58′48″ W.; to lat. 44°34′31″ N., long. 112°25′54″ W.; to lat. 44°41′00″ N., long. 111°59′20″ W.; to lat. 44°39′25″ N., long. 111°52′32″ W.; to lat. 44°19′00″ N., long. 112°04′36″ W.; to lat. 43°34′55″ N., long. 112°29′22″ W.; to lat. 42°57′33″ N., long. 113°32′27″ W.; to lat. 43°00′00″ N., long. 113°52′20″ W.; to lat. 43°57′38″ N., long. 113°56′09″ W.; to lat. 43°57′53″ N., long. 114°51′05″ W.; to lat. 43°05′36″ N., long. 114°51′26″ W.; to lat. 43°03′38″ N., long. 115°19′32″ W.; to lat. 43°17′24″ N., long. 115°41′05″ W.; to lat. 43°30′14″ N., long. 115°36′38″ W.; to lat. 43°47′52″ N., long. 115°41′21″ W.; to lat. 43°58′04″ N., long. 115°51′09″ W.; to lat. 44°03′41″ N., long. 116°12′15″ W.; to lat. 44°15′42″ N., long. 116°19′34″ W.; to lat. 45°07′42″ N., long. 116°18′03″ W.; to lat. 45°13′00″ N., long. 117°05′42″ W., thence to the point of beginning.

Issued in Seattle, Washington, on October 23, 2013.

**Clark Desing,**

*Manager, Operations Support Group, Western Service Center.*

[FR Doc. 2013–25979 Filed 10–31–13; 8:45 am]

**BILLING CODE 4910–13–P**

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Docket No. FAA–2013–0532; Airspace Docket No. 13–ANM–21]**

## Establishment of Class E Airspace; Cut Bank, MT

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

**ACTION:** Final rule.

**SUMMARY:** This action establishes Class E airspace at the Cut Bank VHF Omni-Directional Radio Range Tactical Air Navigational Aid (VORTAC) navigation aid, Cut Bank, MT, to facilitate vectoring of Instrument Flight Rules (IFR) aircraft under control of Salt Lake City and Seattle Air Route Traffic Control Centers (ARTCCs). This improves the safety and management of IFR operations within the National Airspace System.

**DATES:** Effective date, 0901 UTC, February 6, 2014. The Director of the Federal Register approves this incorporation by reference action under 1 CFR Part 51, subject to the annual

revision of FAA Order 7400.9 and publication of conforming amendments.

**FOR FURTHER INFORMATION CONTACT:** Eldon Taylor, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4537.

**SUPPLEMENTARY INFORMATION:**

### History

On July 29, 2013, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to establish controlled airspace at Cut Bank, MT (78 FR 45474). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. One comment was received from the National Business Aviation Association (NBAA) supporting the establishment of Class E en route airspace.

Class E airspace designations are published in paragraph 6006, of FAA Order 7400.9X dated August 7, 2013, and effective September 15, 2013, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in that Order.

### The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by establishing Class E en route airspace extending upward from 1,200 feet above the surface, at the Cut Bank VORTAC, Cut Bank, MT, to accommodate IFR aircraft under control of Salt Lake City and Seattle ARTCCs by vectoring aircraft from en route airspace to terminal areas. This action is necessary for the safety and management of IFR operations.

The FAA has determined this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 discusses the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes controlled airspace at the Cut Bank VORTAC, Cut Bank, MT.

### Environmental Review

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

### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air)

### Adoption of the Amendment

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

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

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

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

### § 71.1 [Amended]

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

*Paragraph 6006 En route domestic airspace areas.*

* * * * *

**ANM MT E6 Cut Bank, MT [New]**

Cut Bank VORTAC, MT
(Lat. 48°33′54″ N., long. 112°20′36″ W.)

That airspace extending upward from 1,200 feet above the surface within an area bounded by lat. 49°00′00″ N., long. 109°11′00″ W.; to lat. 46°54′00″ N., long. 108°49′30″ W.; to lat. 45°56′15″ N., long. 110°00′00″ W.; to lat. 46°23′22″ N., long. 110°30′00″ W.; to lat. 47°10′40″ N., long. 109°52′06″ W.; to lat. 47°59′55″ N., long. 110°30′00″ W.; to lat. 48°12′20″ N., long. 111°00′10″ W.; to lat. 48°15′45″ N., long. 111°33′50″ W.; to lat. 48°03′50″ N., long. 112°14′45″ W.; to lat. 47°41′18″ N., long. 112°36′32″ W.; to lat. 47°53′10″ N., long. 113°35′00″ W.; to lat. 48°25′00″ N., long. 113°35′21″ W.; to lat. 48°24′00″ N., long. 115°44′57″ W.; to lat. 49°00′00″ N., long. 115°30′00″ W.; to lat. 49°00′00″ N., long. 114°40′00″ W.; to lat. 49°00′00″ N., long. 114°00′00″ W.; to lat. 49°00′00″ N., long. 113°00′00″ W.; to lat. 49°00′00″ N., long. 112°00′00″ W.; to lat. 49°00′00″ N., long. 111°00′00″ W.; to lat. 49°00′00″ N., long. 110°00′00″ W., thence to the point of beginning.

Issued in Seattle, Washington, on October 23, 2013.

**Clark Desing,**

*Manager, Operations Support Group, Western Service Center.*

[FR Doc. 2013–25982 Filed 10–31–13; 8:45 am]

BILLING CODE 4910–13–P

## FEDERAL TRADE COMMISSION

## 16 CFR Part 1

## Commission Information Collection Requirements Under the Paperwork Reduction Act; OMB Control Numbers

**AGENCY:** Federal Trade Commission (FTC or Commission).

**ACTION:** Final rule.

**SUMMARY:** The FTC is codifying the control numbers that have been issued by the Office of Management and Budget (OMB) for information collection requirements in Commission rules that are approved under the Paperwork Reduction Act. Control numbers will be centrally located in a table in our regulations.

**DATES:** *Effective Date:* November 1, 2013.

**FOR FURTHER INFORMATION CONTACT:** Gary Greenfield, (202) 326–2753, Attorney, Federal Trade Commission, Office of the General Counsel, Room H–576, 600 Pennsylvania Avenue NW., Washington, DC 20580.

**SUPPLEMENTARY INFORMATION:** The Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3521, and OMB's implementing regulations, 5 CFR Part 1320, require OMB to review certain information collection requirements imposed by federal agency rules. Upon approval of an agency requirement, OMB issues a control number. The agency must display this control

number to inform the public that the agency's information collection requirements have been approved by OMB. For ease of reference, the Commission has determined to publish all the control numbers assigned to its rules (and rules it otherwise co-enforces with another federal agency) in a centrally codified table in the Code of Federal Regulations.

This rule, which pertains to agency procedure, organization, or practice, is exempt from the public notice and comment requirements of the Administrative Procedure Act. *See* 5 U.S.C. 553(b). For the same reason, the Commission is not required to prepare and publish a regulatory flexibility analysis to accompany this rule under the Regulatory Flexibility Act. *See* 5 U.S.C. 603, 604.

**List of Subjects in 16 CFR Part 1, Subpart O**

Paperwork requirements.

For the reasons stated in the preamble, the Commission amends Title 16, Chapter 1, Code of Federal Regulations, as follows:

■ 1. Add new subpart O to Part 1 to read as follows:

## Subpart O—OMB Control Numbers for Commission Information Collection Requirements

Sec.

1.101 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

**Authority:** 44 U.S.C. 3501–3521.

**§ 1.101 OMB control numbers assigned pursuant to the Paperwork Reduction Act.**

(a) *Purpose.* This part collects and displays control numbers assigned by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1995 to information collection requirements in rules issued or enforced by the Commission. A response to an information collection is not required unless the collection of information displays a valid OMB control number. This part fulfills the mandate (44 U.S.C. 3507(a)(3), 44 U.S.C. 3512) that agencies display the current control number assigned by the OMB Director to agency information collection requirements and inform affected persons that they need not respond to a collection of information unless it displays a valid control number.

(b) *Display.*

| Current OMB control number (all numbers begin with 3084–) | 16 CFR part where the information collection requirement is located (or alternate part(s) if issued by another agency, co-enforced by the Federal Trade Commission) |
|---|---|
| 0005 | 801–803. |
| 0025 | 453. |
| 0068 | 306. |
| 0069 | 305. |
| 0085 | 12 CFR part 205; 12 CFR part 1005. |
| 0086 | 12 CFR part 213; 12 CFR part 1013. |
| 0087 | 12 CFR part 202; 12 CFR part 1002. |
| 0088 | 12 CFR part 226; 12 CFR part 1026. |
| 0094 | 309. |
| 0097 | 310. |
| 0099 | 301. |
| 0100 | 300. |
| 0101 | 303. |
| 0102 | 308. |
| 0103 | 423. |
| 0104 | 425. |
| 0105 | 432. |
| 0106 | 435. |
| 0107 | 436. |
| 0108 | 455. |
| 0109 | 460. |
| 0110 | 500–503. |
| 0111 | 701. |
| 0112 | 702. |
| 0113 | 703. |
| 0117 | 312. |
| 0121 | 313. |
| 0127 | 315. |
| 0128 | 12 CFR 1022.136; 12 CFR 1022.137. |
| 0131 | 680; 12 CFR 1022.20. |
| 0132 | 642; 12 CFR 1022.54. |
| 0137 | 641; 681. |
| 0142 | 437. |
| 0144 | 660; 12 CFR 1022.42; 12 CFR 1022.43. |
| 0145 | 640; 12 CFR 1022.70. |
| 0150 | 318. |
| 0156 | 12 CFR part 1014. |
| 0157 | 12 CFR part 1015. |

By direction of the Commission.

**Donald S. Clark,**

*Secretary.*

[FR Doc. 2013–26059 Filed 10–31–13; 8:45 am]

**BILLING CODE 6750–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R04–OAR–2012–0692; FRL–9902–25–Region 4]**

## Approval and Promulgation of Implementation Plans; Florida; Infrastructure Requirements for the 2008 8-Hour Ozone National Ambient Air Quality Standards

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is taking final action to approve in part, and disapprove in part, the State Implementation Plan (SIP) submission, submitted by the State of Florida, through the Florida Department of Environmental Protection (FDEP) on October 31, 2011, to demonstrate that the State meets the infrastructure requirements of the Clean Air Act (CAA or Act) for the 2008 8-hour ozone national ambient air quality standards (NAAQS). The CAA requires that each state adopt and submit a SIP for the implementation, maintenance and enforcement of each NAAQS promulgated by EPA, which is commonly referred to as an ''infrastructure'' SIP. FDEP certified that the Florida SIP contains provisions that ensure the 2008 8-hour ozone NAAQS are implemented, enforced, and maintained in Florida (hereafter referred to as ''infrastructure submission''). EPA is now taking two related actions on FDEP's infrastructure submission for Florida. First, EPA is taking final action to approve that Florida's infrastructure submission addresses all required infrastructure elements for the 2008 8-hour ozone NAAQS with the exception of the portion of the submission related to prevention of significant deterioration (PSD) regarding greenhouse gas (GHG) requirements, and the portion of the submission that purports to meet the requirement that the SIP include provisions prohibiting any source or other type of emissions activity in one state from interfering with measures to protect visibility in another state. Second, EPA is taking final action to disapprove in part portions of Florida's infrastructure submission as it relates to PSD requirements regarding the regulation of greenhouse gas (GHG) emissions.

**DATES:** *Effective Date:* This rule is effective December 2, 2013.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2012–0692. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Nacosta C. Ward, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9140. Ms. Ward can be reached via electronic mail at *ward.nacosta@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

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I. Background
II. This Action
III. Final Action
IV. Statutory and Executive Order Reviews

### I. Background

Upon promulgation of a new or revised NAAQS, sections 110(a)(1) and (2) of the CAA require states to address basic SIP requirements, including emissions inventories, monitoring, and modeling to assure attainment and maintenance for that new NAAQS. Section 110(a) of the CAA generally requires states to make a SIP submission to meet applicable requirements in order to provide for the implementation, maintenance, and enforcement of a new or revised NAAQS within three years following the promulgation of such NAAQS, or within such shorter period as EPA may prescribe. These SIP submissions are commonly referred to as ''infrastructure'' SIP submissions. Section 110(a) imposes the obligation upon states to make an infrastructure SIP submission to EPA for a new or revised NAAQS, but the contents of that submission may vary depending upon the facts and circumstances. In particular, the data and analytical tools available at the time the state develops and submits the infrastructure SIP for a new or revised NAAQS affect the content of the submission. The contents of such infrastructure SIP submissions may also vary depending upon what provisions the state's existing SIP already contains. In the case of the 2008 8-hour ozone NAAQS, states typically have met the basic program elements required in section 110(a)(2) through earlier SIP submissions in connection with previous ozone NAAQS.

More specifically, section 110(a)(1) provides the procedural and timing requirements for SIPs. Section 110(a)(2) lists specific elements that states must meet for infrastructure SIP requirements related to a newly established or revised NAAQS. As mentioned above, these requirements include basic structural SIP elements such as modeling, monitoring, and emissions inventories that are designed to assure attainment and maintenance of the NAAQS. The applicable infrastructure SIP requirements that are the subject of this rulemaking are listed below.[1]

- 110(a)(2)(A): Emission limits and other control measures.
- 110(a)(2)(B): Ambient air quality monitoring/data system.
- 110(a)(2)(C): Program for enforcement of control measures.[2]
- 110(a)(2)(D)(i)(II): Interstate transport (prevention of significant

[1] Two elements identified in section 110(a)(2) are not governed by the three year submission deadline of section 110(a)(1) because SIPs incorporating necessary local nonattainment area controls are not due within three years after promulgation of a new or revised NAAQS, but rather due at the time the nonattainment area plan requirements are due pursuant to other provisions of the CAA for submission of SIP revisions specifically applicable for attainment planning purposes. These requirements are: (1) Submissions required by section 110(a)(2)(C) to the extent that subsection refers to a permit program as required in part D Title I of the CAA; and (2) submissions required by section 110(a)(2)(I) which pertain to the nonattainment planning requirements of part D, Title I of the CAA. Today's proposed rulemaking does not address infrastructure elements related to section 110(a)(2)(I) or the nonattainment planning requirements of 110(a)(2)(C).

[2] This rulemaking only addresses requirements for this element as they relate to attainment areas.

deterioration (PSD) and visibility prongs).[3]

- 110(a)(2)(E): Adequate resources.
- 110(a)(2)(F): Stationary source monitoring system.
- 110(a)(2)(G): Emergency power.
- 110(a)(2)(H): Future SIP revisions.
- 110(a)(2)(I): Areas designated nonattainment and meet the applicable requirements of part D.[4]
- 110(a)(2)(J): Consultation with government officials; public notification; and PSD and visibility protection.
- 110(a)(2)(K): Air quality modeling/data.
- 110(a)(2)(L): Permitting fees.
- 110(a)(2)(M): Consultation/participation by affected local entities.

On May 20, 2013, EPA proposed to approve Florida's October 31, 2011, 2008 8-hour ozone NAAQS infrastructure SIP submission except as it relates to the regulation of GHG emissions for sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) (also referred to as prong 3 of 110(a)(2)(D)(i)),[5] and 110(a)(2)(J), which EPA proposed to disapprove, and section 110(a)(2)(D)(i)(II)) (also referred to as prong 4 of 110(a)(2)(D)(i)), related to provisions prohibiting any source or other type of emissions activity in one state from interfering with measures to protect visibility in another state, which EPA will address in a separate action. *See* 78 FR 29306.

EPA proposed disapproval in part of sections 110(a)(2)(C), 110(a)(2)(D)(i)(II), and 110(a)(2)(J), because Florida did not submit a SIP revision to adopt the appropriate emission thresholds for determining which new stationary sources and modification projects become subject to PSD permitting requirements for their GHG emissions as promulgated in the GHG Tailoring Rule. *See* 75 FR 31514. Therefore, Florida's federally-approved SIP does not address or provide adequate legal authority for, the implementation of a GHG PSD program in Florida. Approval of a revision to address GHG is required to meet sections 110(a)(2)(C), D(i)(II), and (J) related to PSD. On December 30, 2010, EPA promulgated a Federal Implementation Plan (FIP)[6] under CAA section 110(c)(1)(A) for Florida to govern PSD permitting for GHG in the State. Since the Florida SIP currently does not provide adequate legal authority to address the new GHG PSD permitting requirements at or above the emissions levels set in the GHG Tailoring Rule, or at other appropriate levels, it does not satisfy the portions of the aforementioned infrastructure requirements.

Florida's October 31, 2011, 2008 8-hour ozone infrastructure submission also addressed CAA section 110(a)(2)(D)(i)(I), which requires that SIPs contain adequate provisions prohibiting any source or other type of emissions activity in one state from contributing significantly to nonattainment or interference with maintenance of the NAAQS in another state. On April 30, 2013, following the *EME Homer City Generation, L.P.* v. *EPA,* 696 F.3d 7 (DC Cir. 2012) decision, Florida withdrew its submission for section 110(a)(2)(D)(i)(I). In *EME Homer City,* the U.S. Court of Appeals for the DC Circuit concluded that a section 110(a)(2)(D)(i)(I) SIP submission cannot be considered a ''required'' SIP submission until EPA has defined a state's obligations pursuant to that section. *See EME Homer City,* 696 F.3d at 32 (''A SIP logically cannot be deemed to lack a 'required submission' or deemed to be deficient for failure to meet the good neighbor obligation before EPA quantifies the good neighbor obligation.'') Under this decision, therefore, states like Florida have no obligation to make a SIP submission to address CAA 110(a)(2)(D)(i)(I) until EPA has defined the state's obligations. On June 24, 2013, the Supreme Court granted the petitions of the United States and others and agreed to review the merits of the DC Circuit decision in *EME Homer City* during the Court's 2013 term. *See EME Homer City Generation, L.P.* v. *EPA,* 696 F.3d 7 (DC Cir. 2012), *cert. granted* 133 U.S. 2857 (2013). The United States' brief was filed on September 4, 2013 and oral argument has been scheduled for December 10, 2013. At this time, however, the DC Circuit's decision remains in place. EPA intends to act in accordance with the DC Circuit opinion in *EME Homer City* unless it is reversed or otherwise modified by the Supreme Court.

## II. This Action

In this rulemaking, EPA is taking final action to approve Florida's infrastructure submission as demonstrating that the State meets the applicable requirements of sections 110(a)(1) and (2) of the CAA for the 2008 8-hour ozone NAAQS, with the exception of sections 110(a)(2)(C), prong 3 of 110(a)(2)(D)(i), and 110(a)(2)(J) as it relates to the regulation of GHG emissions and prong 4 of 110(a)(2)(D)(i) as it relates to the visibility requirements. EPA is taking no action with respect to section 110(a)(2)(D)(i)(I) for the 2008 8-hour ozone NAAQS in this rulemaking because no such action is required at this time for this State. EPA will be taking action on 110(a)(2)(D)(i)(I), if required, in a separate future action.

Today's final action to disapprove sections 110(a)(2)(C), prong 3 of 110(a)(2)(D)(i), and 110(a)(2)(J) as it relates to the regulation of GHG emissions does not result in any further obligation on the part of Florida, because, as described above, EPA has already promulgated a FIP for the Florida PSD program to address permitting GHGs at or above the GHG Tailoring Rule thresholds. *See* 76 FR 25178. Thus, today's final action to disapprove FDEP's submission for the PSD-related portions of sections 110(a)(2)(C), prong 3 of (D)(i), and (J), once final, will not require any further action by either FDEP or EPA.

## III. Final Action

EPA is taking final action to approve two related actions on Florida's October 31, 2011, submission. First, with the exception of section 110(a)(2)(D)(i)(I) as it relates to interstate transport, the visibility requirements of section 110(a)(2)(D)(i)(II), and the portions of sections 110(a)(2)(C), D(i)(II), and (J) related to GHG PSD permitting, EPA is approving Florida's infrastructure submission because it addresses the required infrastructure elements for the 2008 8-hour ozone NAAQS. With respect to the portions of sections 110(a)(2)(C), D(i)(II), and (J) related to GHG PSD permitting requirements, specifically the regulation of GHG emissions, EPA is taking final action to

[3] Today's final rule does not address section 110(a)(2)(D)(i)(I) (the significant contribution to nonattainment prong or the interfere with maintenance prong) for the 2008 8-hour Ozone NAAQS, which as described in greater detail below, EPA does not presently view as a ''required submission'' consistent with the DC Circuit Court's recent opinion in *EME City Generation* v. *EPA,* 696 F.3d 7, 31 (DC Cir. 2012). In that opinion, the DC Circuit Court concluded that a SIP submission to address section 110(a)(2)(D)(i)(I) for a new or revised NAAQS cannot be considered a ''required'' SIP submission until EPA has first defined a state's obligations pursuant to that section. *See EME Homer City,* 696 F.3d at 32 (''A SIP logically cannot be deemed to lack a 'required submission' or deemed to be deficient for failure to meet the good neighbor obligation before EPA quantifies the good neighbor obligation.'')

[4] This requirement as mentioned above is not relevant to today's proposed rulemaking.

[5] Section 110(a)(2)(D)(i) includes four requirements referred to as prongs 1 through 4. Prongs 1 and 2 are provided at section 110(a)(2)(D)(i)(I); prongs 3 and 4 are provided at section 110(a)(2)(D)(i)(II). This only relates to the PSD requirements of section 110(a)(2)(D)(i)(II), also known as prong 3.

[6] Action to Ensure Authority to Issue Permits under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Federal Implementation Plan—Final Rule, 75 FR 82246 (December 30, 2010).

disapprove Florida's submission related to these requirements. With the exceptions noted above FDEP has addressed the elements of the CAA 110(a)(1) and (2) SIP requirements pursuant to section 110 of the CAA to ensure that the 2008 8-hour ozone NAAQS are implemented, enforced, and maintained in Florida.

## IV. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: October 21, 2013.

**Beverly H. Banister**

*Acting Regional Administrator, Region 4.*

40 CFR part 52 is amended as follows:

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

## Subpart K—Florida

■ 2. Section 52.520(e), is amended by adding a new entry ''110(a)(1) and (2) Infrastructure Requirements for the 2008 8-Hour Ozone National Ambient Air Quality Standards'' at the end of the table to read as follows:

**§ 52.520 Identification of plan.**

* * * * *

(e) * * *

EPA-APPROVED FLORIDA NON-REGULATORY PROVISIONS

| Provision | State effective date | EPA approval date | **Federal Register** notice | Explanation |
|---|---|---|---|---|
| * | * | * | * | * * * |
| 110(a)(1) and (2) Infrastructure Requirements for the 2008 8-Hour Ozone National Ambient Air Quality Standards. | 10/31/2011 | 11/1/13 | [Insert citation of publication]. | With the exception of section 110(a)(2)(D)(i)(I) concerning interstate transport; section 110(a)(2)(D)(i)(II) concerning visibility requirements; and the portions of sections 110(a)(2)(C), prong 3 of 110(a)(2)(D)(i), and 110(a)(2)(J) related to the regulation of GHG emissions, which are being disapproved. |

■ 3. Section 52.522 is amended by designating the existing paragraph as paragraph (a) and adding paragraph (b) to read as follows:

**§ 52.522 Approval status.**

(a) * * *

(b) *Disapproval.* Submittal from the State of Florida, through the Florida Department of Environmental Protection (FDEP) on October 31, 2011, to address the Clean Air Act (CAA) sections 110(a)(2)(C), 110(a)(2)(D)(i)(II), and 110(a)(2)(J) for the 2008 8-hour Ozone National Ambient Air Quality Standards related to prevention of significant deterioration (PSD) requirements for the regulation of greenhouse gas emissions. EPA is disapproving FDEP's submittal with respect to the PSD requirements of CAA sections 110(a)(2)(C), 110(a)(2)(D)(i)(II), and 110(a)(2)(J) for the 2008 8-hour Ozone National Ambient Air Quality Standards related to PSD requirements for the regulation of greenhouse gas emissions.

[FR Doc. 2013–25985 Filed 10–31–13; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 180

**[EPA–HQ–OPP–2013–0165; FRL–9901–95]**

## D-Glucopyranose, oligomeric, decyl octyl glycosides; Exemption from the Requirement of a Tolerance

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes an exemption from the requirement of a

tolerance for residues of D-Glucopyranose, oligomeric, decyl octyl glycosides when used as an inert ingredient (surfactant) in antimicrobial formulations (food-contact surface sanitizing solutions) applied to food-contact surfaces in public eating places, dairy-processing equipment, and food-processing equipment and utensils. Lewis & Harrison, on behalf of BASF Corporation, submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting establishment of an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of D-Glucopyranose, oligomeric, decyl octyl glycosides.

**DATES:** This regulation is effective November 1, 2013. Objections and requests for hearings must be received on or before December 31, 2013, 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–2013–0165, 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), EPA West 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:** Lois Rossi, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 305–7090; email address: *RDFRNotices@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 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–2013–0165 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 December 31, 2013. 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–2013–0165, 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. Petition for Exemption

In the **Federal Register** of June 5, 2013 (78 FR 33785) (FRL–9386–2), EPA issued a document pursuant to FFDCA section 408, 21 U.S.C. 346a, announcing the filing of a pesticide petition (PP IN–10545) by Lewis & Harrison, LLC, 122 C St. NW., Suite 740, Washington, DC 20001 on behalf of BASF Corporation, 100 Park Ave., Florham Park, NJ 07932. The petition requested that 40 CFR 180.940(a) be amended by establishing an exemption from the requirement of a tolerance for residues of alkyl ($C_8$-$C_{10}$) polyglucosides (CAS Reg. No. 68515–73–1) when used as an inert ingredient (surfactant) in antimicrobial formulations (i.e., food contact surface sanitizing solutions) applied to food-contact surfaces in public eating places, dairy-processing equipment, and food-processing equipment and utensils.

That document referenced a summary of the petition prepared by Lewis & Harrison, LLC, on behalf of BASF Corporation, the petitioner, which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

EPA is establishing a tolerance using a different chemical name than the one requested by the petitioner for the reasons discussed in Unit V.B.

## III. Inert Ingredient Definition

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125 and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term ''inert'' is not intended to imply nontoxicity; the ingredient may or may not be chemically active. Generally, EPA has exempted inert ingredients from the requirement of a tolerance based on the low toxicity of the individual inert ingredients.

## IV. Aggregate Risk Assessment and Determination of Safety

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 tolerance is ''safe.'' Section 408(b)(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. Section 408(b)(2)(C) of FFDCA 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 establishes exemptions from the requirement of a tolerance only in those cases where it can be clearly demonstrated that the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no appreciable risks to human health. In order to determine the risks from aggregate exposure to pesticide inert ingredients, the Agency considers the toxicity of the inert in conjunction with possible exposure to residues of the inert ingredient through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings. If EPA is able to determine that a finite tolerance is not necessary to ensure that there is a reasonable certainty that no harm will result from aggregate exposure to the inert ingredient, an exemption from the requirement of a tolerance may be established.

Consistent with FFDCA section 408(c)(2)(A), and the factors specified in FFDCA section 408(c)(2)(B), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for D-Glucopyranose, oligomeric, decyl octyl glycosides including exposure resulting from the exemption established by this action. EPA's assessment of exposures and risks associated with D-Glucopyranose, oligomeric, decyl octyl glycosides follows.

### *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 D-Glucopyranose, oligomeric, decyl octyl glycosides 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 this unit.

In order to make a safety finding on D-Glucopyranose, oligomeric, decyl octyl glycosides, EPA used data on the chemical itself and structurally similar chemicals—alkyl ($C_{12}$-$C_{14}$) polyglycosides and alkyl ($C_{10}$-$C_{16}$) polyglycosides (also known as D-glycopyranose, oligomeric, $C_{10}$-$C_{16}$-alkyl glycosides). These three chemicals differ from one another only in the length of the alkyl chain. Given these structural similarities, these chemicals are expected to have similar toxicological characteristics. Therefore, data on alkyl ($C_{10}$-$C_{16}$) polyglycosides and alkyl ($C_{12}$-$C_{14}$) polyglycosides have been used to make a safety finding on alkyl ($C_8$-$C_{10}$) polyglycosides. For ease of reading, alkyl polyglycosides will be collectively known throughout the document as ''APG'' with the specific carbon chain length identified as ''($C_x$-$C_x$),'' when appropriate.

Acute studies indicate low acute oral and dermal toxicity. Studies using APG ($C_8$-$C_{10}$) did not show evidence of eye or skin irritation. Repeat dose studies for APGs include a 90-day gavage study, a 14-day dermal, a reproduction study, and a developmental study. In the 90-day rat oral (gavage) study APG ($C_{12}$-$C_{14}$) was administered at dose levels of 0, 250, 500, or 1,000 milligram/kilogram/day (mg/kg/day) for 5 days/week. There were no treatment-related adverse effects on body weight, body weight gain, food consumption, hematological or clinical chemistry parameters, or organ weights. Adverse treatment-related effects were limited to irritation in the forestomach in both males and females receiving 500 or 1,000 mg/kg/day. Effects were reversible following the cessation of treatment, but not reversible during treatment. Because humans do not have a forestomach that serves as a storage reservoir as in rodents, the effects seen in the rat forestomach are likely to be significantly more severe than what would be expected from the compound in the glandular stomach in humans and subsequently, have less relevance to humans. Therefore, the EPA determined the systemic oral toxicity NOAEL was 1,000 mg/kg/day. A LOAEL was not determined.

A 14-day dermal study on APGs ($C_8$-$C_{10}$) was conducted on rabbits (New Zealand white) at doses of 0, 60, 180, 540, 1,500, and 3,000 mg/kg/day. While skin irritation was observed at doses above 180 mg/kg/day and changes in hematological and clinical parameters and testicular degeneration were observed at the dose levels of 1,500 and 3,000 mg/kg/day, these effects are likely attributable to stress and inflammation due to the severe irritation caused by the test substance and therefore a NOAEL for systemic effects was not established.

A 1-generation reproductive screening study on APG ($C_{10}$-$C_{16}$) was conducted on male and female rats following daily administration (gavage) of 100, 300, and 1,000 mg/kg/day. No effects indicative of general toxicity were observed in parental animals. Relative and absolute weights of testes, epididymides, and seminal vesicles did not differ between test and control animals. No reproductive parameters were affected including mean litter weights, mean pup weights, sex ratios, and gestation periods. Pre-weaning clinical signs showed no treatment-related effects in pups, nor did necropsy reveal any effects in decedent or Fl pups. Macroscopic examination revealed no difference between treated and control animals. A NOAEL of 1,000 mg/kg/day for reproductive effects can be deduced.

In a rat developmental toxicity study, APG ($C_{12}$-$C_{14}$) was administered by gavage at dose levels of 0, 100, 300, and 1,000 mg/kg/day on gestation days 6 to 15. No treatment-related maternal deaths; clinical signs; or decreases in mean body weight, weight gain, corrected weight gain, or gross lesions were observed in this study. In addition, there were no treatment-related developmental effects (e.g., external abnormalities, visceral abnormalities, or skeletal malformations/variations). Therefore, the developmental and maternal NOAEL is 1,000 mg/kg/day. A LOAEL was not determined.

No immunotoxicity or neurotoxicity studies are available in the database; however, APGs ($C_8$-$C_{10}$) are unlikely to produce neurotoxicity or evoke immunological response given the lack of any toxicity, including any immunotoxicity or neurotoxicity, at high doses (1,000 mg/kg/day). Mutagenicity studies on various chain

lengths of APGs were negative indicating that APGs are not likely to be mutagenic. No carcinogenicity studies are available on APGs; however, APGs are not expected to be carcinogenic based on lack of mutagenicity, lack of any systemic toxicity at doses up to and including 1,000 mg/kg/day, and the rapid metabolism of these chemicals to sugars and alcohols and excretion from the body.

*B. Toxicological Points of Departure/ Levels of Concern*

Metabolism studies on structurally related chemicals indicate that the body can effectively metabolize D-glucopyranose, oligomeric, $C_{10}$-$C_{16}$-alkyl glycosides to water-soluble substances (predominantly sugar and various alcohols) that are readily excreted from the body. No adverse effects were seen any of the repeat dose studies conducted via the oral route of exposure at or above the limit dose. No endpoint of concern was identified based on the available studies in the database.

*C. Exposure Assessment*

Because no endpoint of concern was identified based upon available data, a qualitative risk assessment was conducted.

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to D-Glucopyranose, oligomeric, decyl octyl glycosides, EPA considered exposure under the proposed exemption from the requirement of a tolerance. For purposes of this action, EPA qualitatively assessed dietary exposures from D-Glucopyranose, oligomeric, decyl octyl glycosides as follows:

Dietary exposure could potentially occur from consuming foods directly treated with pesticide products containing the inert ingredient. In addition, dietary exposure to APGs could occur as a result of contact with surfaces treated with antimicrobial formulations containing the inert ingredient, including food-contact surfaces in public eating places, dairy-processing equipment, or food-processing equipment and utensils. Dietary exposure may also come from consuming animal products from animals exposed to the inert ingredient via pesticide application or from eating feed treated with pesticide products containing the inert ingredient.

2. *Dietary exposure from drinking water.* Dietary exposure from drinking water to D-Glucopyranose, oligomeric, decyl octyl glycosides can occur by drinking water that has been contaminated by contact with pesticide treated areas, such as countertops. Since an endpoint for risk assessment was not identified, a quantitative dietary exposure assessment from drinking water for D-Glucopyranose, oligomeric, decyl octyl glycosides was not conducted.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., textiles (clothing and diapers), carpets, swimming pools, and hard surface disinfection on walls, floors, tables). APGs are used in laundry detergents, hard surface and household cleaners, as rinse aids in dishwashers and in personal care products. Non-dietary exposure could result from both pesticidal and non-pesticidal uses.

4. *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 D-Glucopyranose, oligomeric, decyl octyl glycosides to share a common mechanism of toxicity with any other substances, and D-Glucopyranose, oligomeric, decyl octyl glycosides does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that D-Glucopyranose, oligomeric, decyl octyl glycosides 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.*

*D. Safety Factor for Infants and Children*

As part of its qualitative assessment, the Agency did not use safety factors for assessing risk, and no additional safety factor is needed for assessing risk to infants and children. The toxicity database for APGs contains several acute studies, a 90-day oral toxicity study, a 14-dermal study, a developmental toxicity study, and a reproductive screening toxicity study. No hazard was identified based on those studies. The toxicity database does not contain a carcinogenicity study, an immunotoxicity study, or a neurotoxicity study, but for the reasons stated in Unit IV.A., the Agency has concluded that there are no concerns for carcinogenicity, immunotoxicity, or neurotoxicity for this chemical. No developmental or reproductive effects were seen in the available studies. Thus, there is no residual uncertainty regarding prenatal and/or postnatal toxicity of D-Glucopyrnose, oligomeric, decyl octyl glycosides.

Based on this information, there is no concern at this time for increased sensitivity to infants and children to D-Glucopyrnose, oligomeric, decyl octyl glycosides when used as an inert ingredient in antimicrobial formulations applied to food-contact surfaces in public eating places, dairy-processing equipment, and food-processing equipment and utensils.

*E. Aggregate Risks and Determination of Safety*

Taking into consideration all available information on D-Glucopyranose, oligomeric, decyl octyl glycosides, EPA has determined that there is a reasonable certainty that no harm to any population subgroup will result from aggregate exposure to D-Glucopyranose, oligomeric, decyl octyl glycosides under reasonably foreseeable circumstances. Therefore, the establishment of an exemption from tolerance under 40 CFR 180.940(a) for residues of D-Glucopyranose, oligomeric, decyl octyl glycosides when used as an inert ingredient in in antimicrobial food-contact surface sanitizing solutions is safe under FFDCA section 408.

## V. 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*

Alkyl ($C_8$-$C_{10}$) polyglycosides and D-Glucopyranose, oligomeric, decyl octyl glycosides are alternate names for the chemical with the CAS Reg. No. 68515–73–1 and therefore, represent the same chemical. EPA is using the latter name because it is the one used in the Chemical Abstract (CA) Index and the one EPA has used to establish other exemptions from the requirement of tolerance for this chemical.

## VI. Conclusions

Therefore, an exemption from the requirement of a tolerance is established under 40 CFR 180.940(a) for D-Glucopyranose, oligomeric, decyl octyl glycosides (CAS Reg. No. 68515–73–1) when used as an inert ingredient (surfactant) in antimicrobial

formulations (i.e., food contact surface sanitizing solutions) applied to food-contact surfaces in public eating places, dairy-processing equipment, and food-processing equipment and utensils.

## VII. Statutory and Executive Order Reviews

This final rule 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 final rule has been exempted from review under Executive Order 12866, this final rule 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 final rule 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 final rule 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 final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (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 of 1995 (NTTAA) (15 U.S.C. 272 note).

## VIII. 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.

Dated: October 22, 2013.

**Lois Rossi,**

*Director, Registration 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. In § 180.940, add alphabetically the following entry to the table in paragraph (a) to read as follows:

**§ 180.940 Tolerance exemptions for active and inert ingredients for use in antimicrobial formulations (Food-contact surface sanitizing solutions).**

* * * * *

(a) * * *

| Pesticide chemical | CAS Reg. No. | Limits |
|---|---|---|
| * * * * * | * | * |
| D-Glucopyranose, oligomeric, decyl octyl glycosides | 68515–73–1 | None |
| * * * * * | * | * |

* * * * *

[FR Doc. 2013–26241 Filed 10–31–13; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 180

**[EPA–HQ–OPP–2012–0589; FRL–9401–8]**

## Fomesafen; Pesticide Tolerances

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes tolerances for residues of fomesafen in or on multiple commodities which are identified and discussed later in this document. Interregional Research Project Number 4 (IR–4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

**DATES:** This regulation is effective November 1, 2013. Objections and requests for hearings must be received on or before December 31, 2013, 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–2012–0589, 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), EPA West 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:** Lois Rossi, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 305–7090; email address: *RDFRNotices@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 EPA's tolerance regulations at 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 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–2012–0589 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 December 31, 2013. 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–2012–0589, 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. Summary of Petitioned-For Tolerance

In the **Federal Register** of September 28, 2012 (77 FR 59578) (FRL–9364–6) and June 5, 2013 (78 FR 33785) (FRL–9386–2), EPA issued documents pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of pesticide petitions (PP 2E8061 and 3E8167) by IR–4, IR–4 Project Headquarters, 500 College Road East, Suite 201W, Princeton, NJ 08540. The petitions requested that 40 CFR 180.433 be amended by establishing tolerances for residues of the herbicide fomesafen, 5-[2-chloro-4-(trifluoromethyl)phenoxy]-N-(methylsulfonyl)-2-nitrobenzamide, in or on cantaloupe; cucumber; pea, succulent; pumpkin; squash, summer; squash, winter; and watermelon all at 0.025 parts per million (ppm); and soybean, vegetable, succulent at 0.05 ppm (2E8061); and bean, lima, succulent at 0.05 ppm (3E8167). The documents referenced a summary of each petition prepared by Syngenta Crop Protections, LLC, the registrant, which are available in the docket, *http://www.regulations.gov.* One public comment was received on the notice of filing for PP 3E8167. EPA's response to the comment is discussed in Unit IV.C.

Based upon review of data supporting the petition, EPA corrected the commodity name for certain crops for which a tolerance was proposed as explained in Unit IV.D.

## III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(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. Section 408(b)(2)(C) of FFDCA 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.* * *''

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for fomesafen including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with fomesafen follows.

### *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.

In the subchronic and chronic fomesafen toxicity studies in rats and mice, food consumption, food efficiency, body weight, body weight gain, and histopathological changes in the liver were parameters that were most often affected. In addition, dogs and mice also showed hematological changes (e.g., decreased erythrocyte count, hemoglobin, or hematocrit).

In the developmental studies, post-implantation loss was noted but no quantitative or qualitative evidence of increased susceptibility to fomesafen

was seen following *in utero* exposure to rat or rabbit fetuses in prenatal developmental studies or postnatally in rat 2-generation reproduction study.

Acute neurotoxicity studies indicate fomesafen may cause neurotoxicity (decreased motor activity) at the same dose level as systemic toxicity. Although suppression of anti-sheep red blood cell immunoglobulin (SRBC IgM) response was noted in the immunotoxicity study, the selected endpoints for risk assessment are protective of this effect.

Carcinogenicity was not observed in the rat chronic toxicity/carcinogenicity study. Although liver tumors were seen in the mouse carcinogenicity study, EPA classified fomesafen as ''Not Likely to be Carcinogenic to Humans'' because the mode of action for fomesafen-induced hepatocarcinogenesis in mice is unlikely to take place in humans. Fomesafen was not considered to be mutagenic.

Specific information on the studies received and the nature of the adverse effects caused by fomesafen, as well as the no observed adverse effect level (NOAEL) and the lowest observed adverse effect level (LOAEL) from the toxicity studies, can be found at *http://www.regulations.gov* in document: ''Fomesafen Sodium: Human Health Risk Assessment for the Section 3 Registration Action on Cantaloupe, Cucumber, Pea (Succulent), Pumpkin, Summer Squash, Winter Squash, Watermelon, Soybean (Succulent) and Lima Bean (Succulent),'' dated July 18, 2013 at page 27 in docket ID number EPA–HQ–OPP–2012–0589.

*B. Toxicological Points of Departure/Levels of Concern*

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm.*

A summary of the toxicological endpoints for fomesafen used for human risk assessment is shown in Table 1. of this unit.

TABLE 1—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR FOMESAFEN FOR USE IN HUMAN HEALTH RISK ASSESSMENT

| Exposure/scenario | Point of departure and uncertainty/safety factors | RfD, PAD, LOC for risk assessment | Study and toxicological effects |
|---|---|---|---|
| Acute dietary (General population including infants and children). | NOAEL = 100 mg/kg/day<br>$UF_A$ = 10x<br>$UF_H$ = 10x<br>FQPA SF = 1x | Acute RfD = 1 mg/kg/day<br>aPAD = 1 mg/kg/day | Acute neurotoxicity test in the rat.<br>LOAEL = 250 mg/kg/day based on decreased body weight and motor activity (horizontal and vertical activity and time in central quadrant) in males. |
| Chronic dietary (All populations) | NOAEL= 0.25 mg/kg/day $UF_A$ = 10x<br>$UF_H$ = 10x<br>FQPA SF = 1x | Chronic RfD = 0.0025 mg/kg/day<br>cPAD = 0.0025 mg/kg/day | Chronic toxicity/carcinogenicity in the rat.<br>LOAEL = 5 mg/kg/day based on hyalinization of the liver in males. |

FQPA SF = Food Quality Protection Act Safety Factor. LOAEL = lowest observed adverse effect level. NOAEL = no observed adverse effect level. PAD = population adjusted dose (a = acute, c = chronic). RfD = reference dose. UF = uncertainty factor. $UF_A$ = extrapolation from animal to human (interspecies). $UF_H$ = potential variation in sensitivity among members of the human population (intraspecies).

*C. Exposure Assessment*

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to fomesafen, EPA considered exposure under the petitioned-for tolerances as well as all existing fomesafen tolerances in 40 CFR 180.433. EPA assessed dietary exposures from fomesafen in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure.

Such effects were identified for fomesafen. In estimating acute dietary exposure, EPA used Dietary Exposure Evaluation Model—Food Consumption Intake Database (DEEM–FCID), ver. 3.16 which incorporates consumption data from the United States Department of Agriculture (USDA) 2003—2008 National Health and Nutrition Examination Survey, What We Eat in America (NHANES/WWEA). Acute analysis assumed 100 percent crop treated (PCT), DEEM 7.81 default concentration factors, tolerance-level residues for all existing and proposed crop uses.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used DEEM–FCID, ver. 3.16 which incorporates consumption data from USDA 2003—2008 NHANES/WWEA. As to residue levels in food, EPA analysis assumed 100 PCT and tolerance-level residues for all existing and proposed crop uses.

iii. *Cancer.* Based on the data summarized in Unit III.A., a dietary exposure assessment for the purpose of assessing cancer risk is unnecessary.

iv. *Anticipated residue and PCT information.* EPA did not use anticipated residue or PCT information in the dietary assessment for fomesafen. Tolerance level residues and 100 PCT were assumed for all food commodities.

2. *Dietary exposure from drinking water.* The Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for fomesafen in drinking water. These simulation models take into account

data on the physical, chemical, and fate/transport characteristics of fomesafen. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm.*

Screening model Tier II Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS) was used to calculate surface water estimated drinking water concentrations (EDWCs). Groundwater EDWCs for fomesafen were calculated using Tier 1 Pesticide Root Zone Model Ground Water (PRZM GW). Acute exposures are estimated to be 34.8 parts per billion (ppb) for surface water and 51.8 ppb for ground water.

Chronic exposures for non-cancer assessments are estimated to be 13.1 ppb for surface water and 32.3 ppb for ground water.

Modeled estimates of drinking water concentrations are based on ground water EDWCs, which were highest among surface water and ground water EDWCs (representing worst case), were directly entered into the dietary exposure model.

For acute dietary risk assessment, the water concentration value of 51.8 ppb was used to assess the contribution to drinking water.

For chronic dietary risk assessment, the water concentration of value 32.3 ppb was used to assess the contribution to drinking water.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Fomesafen is not registered for any specific use patterns that would result in residential exposure.

4. *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 fomesafen to share a common mechanism of toxicity with any other substances, and fomesafen does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that fomesafen 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.*

*D. Safety Factor for Infants and Children*

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA Safety Factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* The pre- and postnatal database for fomesafen includes a prenatal developmental toxicity study in rabbits, two prenatal developmental toxicity studies in rats, and a 2-generation reproduction toxicity study in rats. The rabbit developmental study was classified as unacceptable because of bacterial infection in the colony; however, the study provided information to assess potential developmental toxicity in rabbits. There was no significant difference between the treated and control animals for developmental abnormalities in the rabbit study. In the two rat developmental studies (considered together), developmental effects (postimplantation loss) occurred at the same dose causing maternal toxicity (staining of the ventral fur and significantly decreased body weight gain (>10%)). In the rat reproduction study, offspring effects (increased incidence of liver hyalinization in males) occurred at the same dose causing parental effects (liver histopathology in males and females of both generations).

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1x. That decision is based on the following findings:

i. The toxicity database for fomesafen is complete. The developmental toxicity study in rabbits, classified unacceptable due to mortality from bacterial infections, showed no evidence of increased susceptibility of rabbit fetuses due to the treatment with fomesafen. Therefore, the lack of an acceptable developmental toxicity study in non-rodents was not considered a data gap.

ii. There is no need for a developmental neurotoxicity study or additional UFs to account for neurotoxicity. In an acute neurotoxicity screening battery in rats, decreased motor activity (horizontal and vertical activity and time in central quadrant) was observed at the same dose that resulted in general systemic toxicity. In the subchronic neurotoxicity test, neither general systemic toxicity nor neurotoxicity was observed at the highest dose tested. All points of departure used in the risk assessment are protective of any potential neurotoxicity.

iii. There is no evidence that fomesafen results in increased susceptibility in *in utero* rats or rabbits in the prenatal developmental studies or in young rats in the 2-generation reproduction study. The 2-generation reproduction study in rats did not show evidence of increased susceptibility to fomesafen.

iv. There are no residual uncertainties identified in the exposure databases. Tolerance level residues and 100 PCT were assumed for all food commodities. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to fomesafen in drinking water. These assessments will not underestimate the exposure and risks posed by fomesafen.

*E. Aggregate Risks and Determination of Safety*

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to fomesafen will occupy < 1% of the aPAD for all population subgroups, including all infants (< 1 year old), the population group receiving the greatest exposure.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to fomesafen from

food and water will utilize 77% of the cPAD for all infants (< 1 year old) the population group receiving the greatest exposure. There are no residential uses for fomesafen.

3. *Short- and intermediate-term risk.* Short- and intermediate-term aggregate exposure takes into account short- or intermediate-term residential exposure plus chronic exposure from food and water (considered to be a background exposure level). Short- and intermediate-term adverse effects were identified; however, fomesafen is not registered for any use patterns that would result in short- and intermediate-term residential exposure. Because there is no short- or intermediate-term residential exposure and chronic dietary exposure has already been assessed under the appropriately protective cPAD (which is at least as protective as the POD used to assess short-term risk), no further assessment of short- or intermediate-term risk is necessary, and EPA relies on the chronic dietary risk assessment for evaluating short- and intermediate-term risk for fomesafen.

4. *Aggregate cancer risk for U.S. population.* Based on the data summarized in Unit III.A., fomesafen is not expected to pose a cancer risk to humans.

5. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to fomesafen residues.

## IV. Other Considerations

### *A. Analytical Enforcement Methodology*

Adequate enforcement methodology (high performance liquid chromatography method with tandem mass spectrometry detection (LC/MS/MS) method (GRM045.01A) is available to enforce the tolerance expression. The validated limit of quantitation (LOQ) of the method is 0.02 ppm.

The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

### *B. International Residue Limits*

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

Codex has not established maximum residue limits (MRLs) for residues of fomesafen.

### *C. Response to Comments*

The Agency received an anonymous public comment objecting to the proposed fomesafen tolerance on lima bean because of the amounts of pesticides already consumed and carried by the American population.

The Agency understands the commenter's concerns and recognizes that some individuals believe that pesticides should be banned completely. However, under the existing legal framework provided by section 408 of the FFDCA, EPA is authorized to establish pesticide tolerances or exemptions where persons seeking such tolerances or exemptions have demonstrated that the pesticide meets the safety standard imposed by that statute.

### *D. Revisions to Petitioned-For Tolerances*

Petitioned-for tolerance levels in or on commodities were unchanged, however, the commodity name of certain proposed crops was changed to comply with current EPA commodity definitions, as follows: Winter, squash changed to squash, winter; vegetable, soybean, succulent to soybean, vegetable, succulent; and lima, bean to bean, lima, succulent.

## V. Conclusion

Therefore, tolerances are established for residues of the herbicide fomesafen, including its metabolites and degradates, in or on cantaloupe; cucumber; pea, succulent; pumpkin; squash, summer; squash, winter; and watermelon all at 0.025 ppm; soybean, vegetable, succulent at 0.05 ppm; and bean, lima, succulent at 0.05 ppm.

## VI. Statutory and Executive Order Reviews

This final rule establishes tolerances 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 final rule has been exempted from review under Executive Order 12866, this final rule 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 final rule 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 tolerances 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 final rule 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 final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (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 of 1995 (NTTAA) (15 U.S.C. 272 note).

### VII. 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.

Dated: October 17, 2013.

**Lois Rossi,**

*Director, Registration 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. In § 180.433, add alphabetically the following commodities to the table in paragraph (a) to read as follows:

**§ 180.433 Fomesafen; tolerance for residues.**

(a) *General.* * * *

| Commodity | Parts per million |
|---|---|
| * * * * * | |
| Bean, lima, succulent | 0.05 |
| * * * * * | |
| Cantaloupe | 0.025 |
| * * * * * | |
| Cucumber | 0.025 |
| Pea, succulent | 0.025 |
| * * * * * | |
| Pumpkin | 0.025 |
| * * * * * | |
| Soybean, vegetable, succulent | 0.05 |
| Squash, summer | 0.025 |
| Squash, winter | 0.025 |
| * * * * * | |
| Watermelon | 0.025 |
| * * * * * | |

[FR Doc. 2013–25984 Filed 10–31–13; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 721

**[EPA–HQ–OPPT–2008–0918; FRL–9901–97]**

**RIN 2070–AB27**

## Modification of Significant New Uses of 1-Propene, 2,3,3,3-tetrafluoro-

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** Under the Toxic Substances Control Act (TSCA), EPA is finalizing an amendment to the significant new use rule (SNUR) for the chemical substance identified as 1-Propene, 2,3,3,3-tetrafluoro-, which was the subject of premanufacture notice (PMN) P–07–601. This action amends the SNUR to allow the manufacture and processing for certain uses without requiring a significant new use notice (SNUN). EPA is finalizing this amendment based on review of newly submitted exposure and toxicity data.

**DATES:** This final rule is effective December 2, 2013.

**ADDRESSES:** The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2008–0918 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), EPA West 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.*

**FOR FURTHER INFORMATION CONTACT:** *For technical information contact:* Jim Alwood, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–8974; email address: *alwood.jim@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. Does this action apply to me?

You may be potentially affected by this action if you manufacture, process, or use the chemical substance identified as 1-Propene, 2,3,3,3-tetrafluoro- (PMN P–07–601). Potentially affected entities may include, but are not limited to:

- Manufacturers or processors of the subject chemical substance (NAICS codes 325 and 324110), e.g., chemical manufacturers and petroleum refineries.

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 in this unit could also be affected. 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. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in § 721.5. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

This action may also affect certain entities through pre-existing import certification and export notification rules under TSCA. Chemical importers are subject to the TSCA section 13 (15 U.S.C. 2612) import certification requirements promulgated at 19 CFR 12.118 through 12.127, and 19 CFR 127.28. Chemical importers must certify that the shipment of the chemical substance complies with all applicable rules and orders under TSCA. Importers of chemicals subject to a SNUR must certify their compliance with the SNUR requirements. The EPA policy in support of import certification appears at 40 CFR part 707, subpart B. In addition, any persons who export or intend to export the chemical substance that is the subject of a proposed or final SNUR are subject to the export notification provisions of TSCA section 12(b) (15 U.S.C. 2611(b)) (see § 721.20), and must comply with the export notification requirements in 40 CFR part 707, subpart D.

## II. Background

*A. What action is the agency taking?*

EPA is finalizing an amendment to the SNUR for the chemical substance identified as 1-Propene, 2,3,3,3-tetrafluoro-, (PMN P–07–601; CAS No. 754–12–1; which is also identified by the trade name HFO–1234yf), codified at 40 CFR 721.10182. This final action removes the requirement to notify EPA at least 90 days prior to the manufacture or processing of the chemical substance for the consumer use to recharge the motor vehicle air conditioning systems in passenger cars and vehicles in which the original charging of motor vehicle air conditioning systems with the PMN substance was done by the motor vehicle.

This rule was proposed in the **Federal Register** issue of May 31, 2013 (78 FR 32617) (FRL–9387–7). EPA received three public comments supporting the proposed modification. One of the commenters also noted a potential ambiguity in the proposed regulatory text. Part of the proposed regulatory text would identify a significant new use as ''use in consumer products other than products used to recharge the motor vehicle air conditioning systems in passenger cars and vehicles in which the charging of motor vehicle air conditioning systems with the PMN substance was done by the motor vehicle original equipment manufacturer (OEM)''. The commenter stated this could be construed to allow only one recharge of automotive air conditioning systems originally charged with HFO–1234yf. To clarify this ambiguity the commenter suggested revising the proposed text to ''use in consumer products other than products used to recharge the motor vehicle air conditioning systems in passenger cars and vehicles in which the original charging of motor vehicle air conditioning systems with the PMN substance was done by the motor vehicle OEM'' (the proposed revision is in italics). The commenter also suggested a similar change to the regulatory text for the significant new use designation for commercial use. EPA agrees with this clarification that the regulatory text is not intended to allow only one recharge of automotive air conditioning systems originally charged with HFO–1234yf. Therefore, the Agency is issuing a final amended SNUR, that:

1. No longer requires notification prior to the manufacture or processing for the consumer use to recharge the motor vehicle air conditioning systems in passenger cars and vehicles in which the original charging of motor vehicle air conditioning systems with the PMN substance was done by the motor vehicle OEM.

2. Clarifies the language in the regulatory text that manufacture and processing for use as a refrigerant in motor vehicle air conditioning systems in new passenger cars and vehicles as reported in the original PMN is not a significant new use.

3. Clarifies the language in the regulatory text for commercial and consumer use that it is not intended to allow only one recharge of automotive air conditioning systems originally charged with HFO–1234yf.

*B. What is the agency's authority for taking this action?*

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a ''significant new use.'' EPA must make this determination by rule after considering all relevant factors, including the four bulleted TSCA section 5(a)(2) factors, listed in Unit IV. of this document. Once EPA determines that a use of a chemical substance is a significant new use, TSCA section 5(a)(1)(B) requires persons to submit a significant new use notice (SNUN) to EPA at least 90 days before they manufacture or process the chemical substance for that use. Persons who must report are described in § 721.5.

## III. Rationale for the Rule

During review of PMN P–07–601, the chemical substance identified as 1-Propene, 2,3,3,3-tetrafluoro-, EPA determined that one or more of the criteria of concern established at § 721.170 were met and regulation under section 5(a)(2) of TSCA was warranted. The basis for such criteria of concern is outlined in Unit II.A. of the proposed rule and in the **Federal Register** document of June 26, 1990 (55 FR 26102). Based on these findings, a SNUR was promulgated pursuant to § 721.170.

After the review of new test data and information subsequent to issuance of the SNUR (see Unit II.A of the proposed rule), and consideration of the factors included in TSCA section 5(a)(2) (see Unit IV.), EPA determined that the concern criteria in § 721.170(b) are no longer met for the consumer use in the recharge of motor vehicle air conditioning systems originally charged with the PMN substance by the motor vehicle OEM.

## IV. Significant New Use Determination

Section 5(a)(2) of TSCA states that EPA's determination that a use of a chemical substance is a significant new use must be made after consideration of all relevant factors, including:

- The projected volume of manufacturing and processing of a chemical substance.
- The extent to which a use changes the type or form of exposure of human beings or the environment to a chemical substance.
- The extent to which a use increases the magnitude and duration of exposure of human beings or the environment to a chemical substance.
- The reasonably anticipated manner and methods of manufacturing, processing, distribution in commerce, and disposal of a chemical substance.

In addition to these factors enumerated in TSCA section 5(a)(2), the statute authorizes EPA to consider any other relevant factors. To determine that the consumer use in the recharge of motor vehicle air conditioning systems originally charged with the PMN substance by the motor vehicle OEM would not constitute a significant new use for the chemical substance identified as 1-Propene, 2,3,3,3-tetrafluoro-, (PMN P–07–601), EPA considered relevant information about the toxicity of the chemical substance, likely human exposures and environmental releases associated with possible uses, taking into consideration the four bulleted TSCA section 5(a)(2) factors listed in this unit.

## V. Economic Analysis

EPA evaluated the potential costs of establishing SNUN requirements for potential manufacturers and processors of the chemical substance during the development of the direct final rule. The Agency's complete Economic Analysis is available in the docket under docket ID number EPA–HQ–OPPT–2008–0918.

## VI. Statutory and Executive Order Reviews

*A. Executive Order 12866*

This action modifies a SNUR for a chemical substance that is the subject of a PMN. 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).

*B. Paperwork Reduction Act*

According to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.,* an Agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under PRA, unless it has been approved by OMB and displays a currently valid OMB

control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR part 9, and included on the related collection instrument or form, if applicable. EPA has amended the table in 40 CFR part 9 to list the OMB approval number for the information collection requirements contained in this rule. This listing of the OMB control numbers and their subsequent codification in the CFR satisfies the display requirements of PRA and OMB's implementing regulations at 5 CFR part 1320.

The information collection requirements related to this action have already been approved by OMB pursuant to PRA under OMB control number 2070–0012 (EPA ICR No. 574). This action does not impose any burden requiring additional OMB approval. If an entity were to submit a SNUN to the Agency, the annual burden is estimated to average between 30 and 170 hours per response. This burden estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete, review, and submit the required SNUN.

Send any comments about the accuracy of the burden estimate, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques, to the Director, Collection Strategies Division, Office of Environmental Information (2822T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001. Please remember to include the OMB control number in any correspondence, but do not submit any completed forms to this address.

*C. Regulatory Flexibility Act*

On February 18, 2012, EPA certified pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), that promulgation of a SNUR does not have a significant economic impact on a substantial number of small entities where the following are true:

1. A significant number of SNUNs would not be submitted by small entities in response to the SNUR.

2. The SNUN submitted by any small entity would not cost significantly more than $8,300.

A copy of that certification is available in the docket for this rule.

This rule is within the scope of the February 18, 2012 certification. Based on the Economic Analysis discussed in Unit V. and EPA's experience promulgating SNURs (discussed in the certification), EPA believes that the following are true:

- A significant number of SNUNs would not be submitted by small entities in response to the SNUR.
- Submission of the SNUN would not cost any small entity significantly more than $8,300. Therefore, the promulgation of the SNUR would not have a significant economic impact on a substantial number of small entities.

*D. Unfunded Mandates Reform Act*

Based on EPA's experience with proposing and finalizing SNURs, State, local, and Tribal governments have not been impacted by these rulemakings, and EPA does not have any reasons to believe that any State, local, or Tribal government will be impacted by this final rule. As such, EPA has determined that this final rule does not impose any enforceable duty, contain any unfunded mandate, or otherwise have any affect on small governments subject to the requirements of sections 202, 203, 204, or 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4).

*E. Executive Order 13132*

This action will not have 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, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999).

*F. Executive Order 13175*

This final rule does not have Tribal implications because it is not expected to have substantial direct effects on Indian Tribes. This final rule does not significantly nor uniquely affect the communities of Indian Tribal governments, nor does it involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000), do not apply to this final rule.

*G. Executive Order 13045*

This action is not subject to Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997), because this is not an economically significant regulatory action as defined by Executive Order 12866, and this action does not address environmental health or safety risks disproportionately affecting children.

*H. Executive Order 13211*

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), because this action is not expected to affect energy supply, distribution, or use and because this action is not a significant regulatory action under Executive Order 12866.

*I. National Technology Transfer and Advancement Act*

In addition, since this action does not involve any technical standards, section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note), does not apply to this action.

*J. Executive Order 12898*

This action does not entail special considerations of environmental justice related issues as delineated by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

**VII. 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 721**

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: October 24, 2013.

**Maria J. Doa,**

*Director, Chemical Control Division, Office of Pollution Prevention and Toxics.*

Therefore, 40 CFR part 721 is amended as follows:

## PART 721—[AMENDED]

■ 1. The authority citation for part 721 continues to read as follows:

**Authority:** 15 U.S.C. 2604, 2607, and 2625(c).

■ 2. In § 721.10182, revise paragraphs (a)(1) and (a)(2)(i) to read as follows:

**§ 721.10182 1-Propene, 2,3,3,3-tetrafluoro-.**

(a) * * *

(1) The chemical substance identified as 1-propene, 2,3,3,3-tetrafluoro- (PMN

P–07–601; CAS No. 754–12–1) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) * * *

(i) *Industrial, commercial, and consumer activities.* A significant new use is use other than as a refrigerant in motor vehicle air conditioning systems in new passenger cars and vehicles (i.e., as defined in 40 CFR 82.32(c) and (d)); § 721.80(m) (commercial use other than in passenger cars and vehicles in which the original charging of motor vehicle air conditioning systems with the PMN substance was done by the motor vehicle original equipment manufacturer (OEM)); § 721.80(o) (use in consumer products other than products used to recharge the motor vehicle air conditioning systems in passenger cars and vehicles in which the original charging of motor vehicle air conditioning systems with the PMN substance was done by the motor vehicle OEM).

* * * * *

[FR Doc. 2013–25981 Filed 10–31–13; 8:45 am]

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### 50 CFR Part 20

**[Docket Nos. FWS–R9–MB–2012–0028 and FWS–R9–MB–2012–0038; FF09M21200–134–FXMB1231099BPP0]**

**RIN 1018–AY61, 1018–AY66**

## Migratory Bird Hunting; Application for Approval of Copper-Clad Iron Shot and Fluoropolymer Shot Coatings as Nontoxic for Waterfowl Hunting

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule; availability of environmental assessments.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, approve copper-clad iron shot and fluoropolymer coatings for hunting waterfowl and coots. We published a proposed rule for approval of copper-clad iron shot and fluoropolymer coatings in the **Federal Register** on September 26, 2012 (77 FR 59158). We considered comments on the proposed rule, and we believe that neither the shot nor the coatings will pose toxicity hazards to fish or wildlife or their habitats.

**DATES:** This rule is effective December 2, 2013.

**FOR FURTHER INFORMATION CONTACT:** Dr. George Allen, at 703–358–1825.

**SUPPLEMENTARY INFORMATION:**

### Background

The Migratory Bird Treaty Act of 1918 (Act) (16 U.S.C. 703–712 and 16 U.S.C. 742 a–j) implements migratory bird treaties between the United States and Great Britain for Canada (1916 and 1996 as amended), Mexico (1936 and 1972 as amended), Japan (1972 and 1974 as amended), and Russia (then the Soviet Union 1978). These treaties protect most migratory bird species from take, except as permitted under the Act, which authorizes the Secretary of the Interior to regulate take of migratory birds in the United States. Under this authority, we control the hunting of migratory game birds through regulations in 50 CFR part 20. We prohibit the use of shot types other than those listed in the Code of Federal Regulations (CFR) at 50 CFR 20.21(j) for hunting waterfowl and coots and any species that make up aggregate bag limits.

Deposition of toxic shot and release of toxic shot components in waterfowl hunting locations are potentially harmful to many organisms. Research has shown that ingested spent lead shot causes significant mortality in migratory birds. Since the mid-1970s, we have sought to identify types of shot for waterfowl hunting that are not toxic to migratory birds or other wildlife when ingested. We continue to review shot types and shot coatings submitted for approval as nontoxic.

We addressed lead poisoning in waterfowl in an environmental impact statement (EIS) in 1976, and again in a 1986 supplemental EIS. The 1986 document provided the scientific justification for a ban on the use of lead shot and the subsequent approval of steel shot for hunting waterfowl and coots that began that year, with a complete ban of lead for waterfowl and coot hunting in 1991. We have continued to consider other potential candidates for approval as nontoxic shot. We are obligated to review applications for approval of alternative shot types as nontoxic for hunting waterfowl and coots.

Many hunters believe that some nontoxic shot types compare poorly to lead and may damage some shotgun barrels. A small and decreasing percentage of hunters have not complied with nontoxic shot regulations. Allowing use of additional nontoxic shot types may encourage greater hunter compliance and participation with nontoxic shot requirements and discourage the use of lead shot. The use of nontoxic shot for waterfowl hunting increased after the ban on lead shot, but we believe that compliance will continue to increase with the availability and approval of other nontoxic shot types. Increased use of nontoxic shot will enhance protection of migratory waterfowl and their habitats.

### Copper-Clad Iron Shot

Copper-clad iron shot is a composite in which copper is thermo-mechanically bonded to centerless-ground steel rod, then mechanically worked to final wire and shot configurations. Copper-clad iron shot may be produced with a variety of different proportions of copper and iron, ranging from 16 to 44.41% by weight copper, with a density of approximately 8.3 grams per cubic centimeter. Environ-Metal asserts that ''there is little variability in composition to be expected'' in production of the shot. Environ-Metal expects to produce about 50,000 pounds of copper-clad iron shot per year.

### Fluoropolymer Coatings

Spectra Shot is cut wire shotgun shot (steel shot) with a proprietary shot coating. Four different colors of the coated shot will be marketed as Spectra Shot™ Blue, Spectra Shot™ Green, Spectra Shot™ Orange, and Spectra Shot™ Yellow. The thickness of the coating will be 3 to 10 microns, with a corresponding weight per shot as follows: Spectra Shot™ Blue—0.209 milligram per shot; Spectra Shot™ Green—0.732 milligram per shot; Spectra Shot™ Orange—0.942 milligram per shot; and Spectra Shot™ Yellow—1.779 milligrams per shot. Spectra Shot expects annual use of the coated shot in hunting migratory birds in the United States to be 98,000 pounds.

Polyamide-imide copolymer, polytetrafluoroethylene, amorphous fumed silica, and methylphenyl polysiloxane are common to all Spectra Shot™ colors and make up the bulk of the coating. The pigments vary between coatings, and comprise 13.8% to 20.5% by weight of the dry film.

### Effects of the Approval on Migratory Waterfowl

Allowing use of additional nontoxic shot types may encourage greater hunter compliance and participation with nontoxic shot requirements and discourage the use of lead shot. Furnishing additional approved nontoxic shot types and nontoxic coatings likely will further reduce the use of lead shot. Thus, approving additional nontoxic shot types and coatings will likely have no effect on waterfowl and wetland habitats.

**Effects on Endangered and Threatened Species**

Copper-clad iron shot and fluoropolymer coatings are highly unlikely to adversely affect animals that consume the shot or habitats in which the shot might be used. Their approval will not affect threatened or endangered species.

We obtained a biological opinion pursuant to section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.), prior to establishing the seasonal hunting regulations. The hunting regulations promulgated as a result of this consultation remove and alleviate chances of conflict between migratory bird hunting and endangered and threatened species.

**Effects on Ecosystems**

Previously approved shot types have been shown in test results to be nontoxic to the migratory bird resource, and we believe that they cause no adverse impact on ecosystems. There is concern, however, about noncompliance with the prohibition on lead shot and potential ecosystem effects. The use of lead shot has a negative impact on wetland ecosystems due to the erosion of shot, causing sediment/soil and water contamination and the direct ingestion of shot by aquatic and predatory animals. Though we believe noncompliance is of concern, approval of the shot type and the coatings will have little impact on the resource, unless it has the small positive impact of reducing the rate of noncompliance.

**Cumulative Impacts**

We foresee no negative cumulative impacts if we approve the shot type and the coatings for waterfowl hunting. Their approval could help to further reduce the negative impacts of the use of lead shot for hunting waterfowl and coots. We believe the impacts of the approvals for waterfowl hunting in the United States should be positive, albeit minor.

**Comments on the Proposed Rule**

We received five comments on the proposed rule published on September 26, 2012 (77 FR 59158). Four supported approval of the shot and the coatings, and one contained no useful information. Therefore, as stated in the proposed rule, we reviewed the shot and the shot coatings under the criteria at 50 CFR 20.134, and add these products to the list of those approved for hunting waterfowl and coots at 50 CFR 20.21(j).

**Required Determinations**

*Regulatory Planning and Review (Executive Orders 12866 and 13563)*

Executive Order 12866 provides that the Office of Management and Budget's Office of Information and Regulatory Affairs (OIRA) will review all significant rules. OIRA has determined that this rule is not significant.

Executive Order 13563 affirms the principles of E.O. 12866, and calls for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

*Regulatory Flexibility Act (5 U.S.C. 601 et seq.)*

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq., as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 (Pub. L. 104–121)), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions).

SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities. We have examined this rule's potential effects on small entities as required by the Regulatory Flexibility Act, and have determined that this action will not have a significant economic impact on a substantial number of small entities. The rule will allow small entities to improve their economic viability. However, the rule will not have a significant economic impact because it will affect only two companies. We certify that because this rule will not have a significant economic effect on a substantial number of small entities, a regulatory flexibility analysis is not required.

This rule is not a major rule under the SBREFA (5 U.S.C. 804 (2)).

a. This rule will not have an annual effect on the economy of $100 million or more.

b. This rule will not cause a major increase in costs or prices for consumers; individual industries; Federal, State, Tribal, or local government agencies; or geographic regions.

c. This rule will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

*Unfunded Mandates Reform Act*

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.), we have determined the following:

a. This rule will not ''significantly or uniquely'' affect small governments. A small government agency plan is not required. Actions under the regulation will not affect small government activities in any significant way.

b. This rule will not produce a Federal mandate of $100 million or greater in any year. It will not be a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

*Takings*

In accordance with E.O. 12630, this rule does not have significant takings implications. A takings implication assessment is not required. This rule does not contain a provision for taking of private property.

*Federalism*

This rule does not have sufficient Federalism effects to warrant preparation of a federalism summary impact assessment under E.O. 13132. It will not interfere with the ability of States to manage themselves or their funds.

*Civil Justice Reform*

In accordance with E.O. 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of E.O. 12988.

*Paperwork Reduction Act*

This rule does not contain any new collections of information that require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control

number. OMB has approved our collection of information associated with applications for approval of nontoxic shot (50 CFR 20.134) and assigned OMB Control Number 1018–0067, which expires May 31, 2015.

*National Environmental Policy Act*

Our environmental assessment is part of the administrative record for this regulations change. It is posted at *http://www.regulations.gov* in Docket Nos. FWS–R9–MB–2012–0028 and FWS–R9–MB–2012–0038. In accordance with the National Environmental Policy Act (NEPA, 42 U.S.C. 4321 et seq. and Part 516 of the U.S. Department of the Interior Manual (516 DM), approval of copper-clad iron shot and fluoropolymer coatings will not have a significant effect on the quality of the human environment, nor will it involve unresolved conflicts concerning alternative uses of available resources. Therefore, preparation of an EIS is not required.

*Government-to-Government Relationship With Tribes*

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), E.O. 13175, and 512 DM 2, we have determined that there are no potential effects on federally recognized Indian Tribes. This rule will not interfere with the ability of Tribes to manage themselves or their funds or to regulate migratory bird activities on Tribal lands.

*Energy Supply, Distribution, or Use (E.O. 13211)*

On May 18, 2001, the President issued E.O. 13211 addressing regulations that significantly affect energy supply, distribution, and use. E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This rule change will not be a significant regulatory action under E.O. 12866, nor will it significantly affect energy supplies, distribution, or use. This action will not be a significant energy action, and no Statement of Energy Effects is required.

*Compliance With Endangered Species Act Requirements*

Section 7 of the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 et seq.), requires that ''The Secretary [of the Interior] shall review other programs administered by him and utilize such programs in furtherance of the purposes of this chapter'' (16 U.S.C. 1536(a)(1)). It further states that the Secretary must ''insure that any action authorized, funded, or carried out . . . is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat'' (16 U.S.C. 1536(a)(2)). We have concluded that the regulation change will not affect listed species.

**List of Subjects in 50 CFR Part 20**

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

For the reasons discussed in the preamble, we amend part 20, subchapter B, chapter I of title 50 of the Code of Federal Regulations as follows:

## PART 20—[AMENDED]

■ 1. The authority citation for part 20 continues to read as follows:

**Authority:** Migratory Bird Treaty Act, 40 Stat. 755, 16 U.S.C. 703–712; Fish and Wildlife Act of 1956, 16 U.S.C. 742a–j; Public Law 106–108, 113 Stat. 1491, Note Following 16 U.S.C. 703.

■ 2. Amend § 20.21(j)(1) by revising the table and footnotes to read as follows:

**§ 20.21 What hunting methods are illegal?**

* * * * *

(j)(1) * * *

| Approved shot type* | Percent composition by weight | Field testing device** |
|---|---|---|
| Bismuth-tin | 97 bismuth, and 3 tin | Hot Shot®*** |
| Iron (steel) | iron and carbon | Magnet or Hot Shot®. |
| Iron-tungsten | any proportion of tungsten, and ≥1 iron | Magnet or Hot Shot®. |
| Iron-tungsten-nickel | ≥1 iron, any proportion of tungsten, and up to 40 nickel | Magnet or Hot Shot®. |
| Copper-clad iron | 84 to 56.59 iron core, with copper cladding up to 44.1 of the shot mass. | Magnet or Hot Shot® |
| Tungsten-bronze | 51.1 tungsten, 44.4 copper, 3.9 tin, and 0.6 iron, or 60 tungsten, 35.1 copper, 3.9 tin, and 1 iron. | Rare Earth Magnet. |
| Tungsten-iron-copper-nickel | 40–76 tungsten, 10–37 iron, 9–16 copper, and 5–7 nickel | Hot Shot® or Rare Earth Magnet. |
| Tungsten-matrix | 95.9 tungsten, 4.1 polymer | Hot Shot®. |
| Tungsten-polymer | 95.5 tungsten, 4.5 Nylon 6 or 11 | Hot Shot®. |
| Tungsten-tin-iron | any proportions of tungsten and tin, and ≥1 iron | Magnet or Hot Shot®. |
| Tungsten-tin-bismuth | any proportions of tungsten, tin, and bismuth | Rare Earth Magnet. |
| Tungsten-tin-iron-nickel | 65 tungsten, 21.8 tin, 10.4 iron, and 2.8 nickel | Magnet. |
| Tungsten-iron-polymer | 41.5–95.2 tungsten, 1.5–52.0 iron, and 3.5–8.0 fluoropolymer | Rare Earth Magnet or Hot Shot®. |

* Coatings of copper, nickel, tin, zinc, zinc chloride, zinc chrome, and fluoropolymers on approved nontoxic shot types also are approved.
** The information in the ''Field Testing Device'' column is strictly informational, not regulatory.
*** The ''HOT*SHOT'' field testing device is from Stream Systems of Concord, CA.

* * * * *

Dated: September 17, 2013.

**Michael J. Bean,**

*Acting Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 2013–26063 Filed 10–31–13; 8:45 am]

**BILLING CODE 4310–55–P**

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## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## 50 CFR Part 21

**[Docket No. FWS–R9–MB–2011–0060; FF09M21200–134–XMB123199BPP0]**

**RIN 1018–AX90**

## Migratory Bird Permits; Definition of ''Hybrid'' Migratory Bird

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (FWS), revise the definition of ''hybrid'' as it relates to birds protected under the Migratory Bird Treaty Act. We revise the definition to make it clear that it applies to all offspring of any species listed at 50 CFR 10.13.

**DATES:** This rule is effective on December 2, 2013.

**FOR FURTHER INFORMATION CONTACT:** Dr. George T. Allen, 703–358–1825.

**SUPPLEMENTARY INFORMATION:**

### I. Background

At 50 CFR 21.3, the term ''hybrid'' is defined as the ''offspring of birds listed as two or more distinct species in § 10.13 of subchapter B of this chapter, or offspring of birds recognized by ornithological authorities as two or more distinct species listed in § 10.13 of subchapter B of this chapter.'' This means that, under the definition of ''hybrid'' at 50 CFR 21.3, the only hybrid migratory birds that are protected by our regulations under the Migratory Bird Treaty Act (MBTA; 16 U.S.C. 703–712) are birds that are the offspring of two species already protected under the MBTA.

This definition has created difficulties because it differs from the longstanding Service interpretation of ''hybrid'' as applied to falconry and raptor propagation birds, in particular, where hybrids between two separate taxa when one or both include genetic material of a species listed in 50 CFR 10.13 have been regulated under the MBTA. This interpretation is consistent with the § 10.12 definition of ''migratory bird,'' which is any bird, whatever its origin and whether or not raised in captivity, which belongs to a species listed in § 10.13, or which is a mutation or a hybrid of any such species.

The definition at 50 CFR 21.3 also differs from the definition of ''hybrid'' under the Convention on International Trade in Endangered Species of Wild Fauna and Flora, which requires CITES documentation for import or export of all raptors, including any resulting from a cross of genetic material between two separate taxa when one or both are listed under the CITES appendices (CITES, 50 CFR 23.5).

''Hybrid'' was not defined under the MBTA prior to 2008, when the falconry regulations were substantially revised (73 FR 59448–59477, October 8, 2008). At that time, we inadvertently defined ''hybrid'' in 50 CFR 21.3 in a manner that conflicts with the use of the term in other regulations.

To ensure that migratory birds are protected under our regulations implementing the MBTA, on November 8, 2011, we proposed a change to the definition of ''hybrid'' at 50 CFR 21.3 (76 FR 69223–69225). The change was intended to make it clear that the offspring of any species listed at 50 CFR 10.13 are protected under the MBTA, whether or not additional species that are not protected under the MBTA have contributed to its genetics, and regardless of how many generations separate such birds from a species protected by the MBTA. This change will also make our regulations consistent with our long-standing practice.

### II. Comments on the Proposed Rule

The most in-depth comments on the proposed rule were based on assessment of the proposal in light of the 2004 Migratory Bird Treaty Reform Act (MBTRA, Pub. L. 108–447, December 8, 2004). Commenters asserted that the proposed definition was in conflict with the provisions of the MBTRA. The MBTRA amended 16 U.S.C. 703, stating that the Migratory Bird Treaty Act (MBTA, 16 U.S.C. 703–712) ''applies only to migratory bird species that are native to the United States or its territories.''

The MBTRA states that ''a migratory bird species that occurs in the United States or its territories solely as a result of intentional or unintentional human-assisted introduction shall not be considered native to the United States or its territories.'' The MBTRA was intended to address problems of human-introduced bird species, such as the mute swan. These species often become established in the wild and conflict with native wildlife. The MBTRA refers throughout only to migratory bird ''species.'' It does not address hybrids, including those intentionally created in captivity by man. Therefore, the MBTRA does not apply to this regulations change.

Lastly, we conclude that the MBTRA does not affect the protection of hybrid birds. The MBTRA was precipitated by litigation forcing the Service to protect the mute swan, a nonnative species introduced through human intervention. It was intended to exclude such nonnative, human-introduced bird species from protection under the MBTA. We find nothing in the legislative history to show that Congress intended the MBTRA to have the effect of excluding hybrids of native species from the protection of the MBTA.

It was also argued that the proposed definition change used the *Andrus* v. *Allard* decision (444 U.S. 51, 1979) and ''is an attempt to justify the expansion of FWS authority.'' In the unanimous decision in that court case, the Supreme Court ruled that imposition of a restriction on commercial use of migratory birds or migratory bird parts was not a taking of private property. Many activities with migratory birds are governed by regulations, and may not be conducted without permits. This does not mean that the government has taken private property, nor does it mean that the Service is attempting to expand its authority in this case. The definition of ''hybrid'' we are codifying is already in use by the Service in other regulations.

One commenter asserted that ''Most hybrid raptors are more easily distinguished from native species than any of the above species are from each other. In addition, wildlife officials have access to the trained eyes of experts at museums, falconers and raptor breeders if the possession or importation of any raptor is in question.''

We disagree with this argument. For enforcement of the MBTA, identification of the birds held by permittees is vital to State and Federal law enforcement officers. Yet, identification of hybrids is difficult. Eastham and Nicholls (2005, Morphometric analysis of large *Falco* species and their hybrids with implications for conservation, Journal of Raptor Research 39:386–393) concluded that ''phenotypic characteristics are not reliable for identification of such hybrids [gyrfalcon (*Falco rusticolus)* × peregrine (*Falco peregrinus*), gyrfalcon × saker falcon (*Falco cherrug*), peregrine × saker], and for legal purposes.'' Thus, hybrids present challenges to law enforcement officers in the field. Experts at museums, falconers, and propagators may be available to assist

law enforcement officers. However, import of hybrids is of less concern than is identification of hybrids produced by propagators here in the U.S. And, in most cases it may be difficult for a law enforcement officer to get prompt assistance from anyone for identification of raptors while conducting inspections or field investigations.

One commenter asserted that ''The point made in the conclusion of this FWS proposal, that law enforcement efforts would be more burdensome due to the difficulty in identifying purebred versus hybrid raptors, is irrelevant. The rights and liberties of citizens are of greater importance than law enforcement convenience given the fact that the very purpose of law enforcement efforts is to protect the rights and liberties of citizens.''

Though we agree about the importance of the rights of citizens, we disagree that the law enforcement difficulties are irrelevant. The ability to enforce the MBTA is critical to the Service's conservation mission. If the provisions of the MBTA cannot be enforced for some activities, such as propagation, purchase, sale, and barter, we might not be able to allow those activities. Hybrids of MBTA species often are difficult to distinguish from one of the parent species. Because hybrids may look so much like wild or pure-bred birds, enforcing provisions of the MBTA could be impossible.

If hybrids of MBTA species are not regulated under the MBTA, we cannot require that they be banded. Therefore, law enforcement officers would have no simple means to identify them or their origins, and could not practicably enforce the MBTA.

Some commenters stated that we decided to revise the definition because hybrid raptors ''may pose a threat to native raptor populations through competition or crossbreeding.'' We said in our proposed rule that hybrids may pose such a risk, not that we believe this risk is significant, though concern about this possible problem has been expressed to us. However, if hybrid raptors are not protected under the MBTA, the question likely could not ever be assessed because we would not be able to require that they be identified.

Several commenters asserted that governance of hybrid raptors is the responsibility of the States, not of the Federal Government. Enforcement of the MBTA is a Federal responsibility, and identification of hybrid birds is necessary for enforcement and for assuring compliance with the provisions of the MBTA treaties.

The U.S. Department of Agriculture's Animal and Plant Health Inspection Service's Wildlife Services requested that the final rule include ''an explicit statement that the definition of ''hybrid'' does not extend to species other than migratory birds protected under the MBTA. A statement of this sort, in addition to the existing statements that the rule applies to 50 CFR 10.13 (list of migratory birds), would clarify the definition's application to migratory birds only. Without this clarification, it could be construed that the definition extends to CITES-protected canids and other species groups.''

The definition of hybrid in this rule is being codified at § 21.3, which is the section of regulatory definitions that apply only to 50 CFR part 21 (migratory bird permits), and to bald eagles (*Haliaeetus leucocephalus*) and golden eagles (*Aquila chrysaetos*) as affected by regulations in part 21. Therefore, we see no need to add the statement requested by the commenter.

## III. Changes From the Proposed Rule

On November 8, 2011, at 76 FR 69223, we proposed a definition of hybrid that read, ''*Hybrid* means offspring of any two different species listed in § 10.13 of subchapter B of this chapter, and any progeny of those birds; or offspring of any bird of a species listed in § 10.13 of subchapter B of this chapter and any bird of a species not listed in § 10.13 of subchapter B of this chapter, and any progeny of those birds.'' In this rule, we are adopting a definition with different wording: ''*Hybrid* means any bird that results from a cross of genetic material between two separate taxa when one or both are listed at 50 CFR 10.13, and any progeny of those birds.'' We are adopting this different wording in this final rule because comments from the public convinced us that the definition should be more consistent with the language used elsewhere in our regulations and should be easier to understand.

## Required Determinations

*Regulatory Planning and Review (Executive Orders 12866 and 13563).*

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

*Regulatory Flexibility Act (5 U.S.C. 601 et seq.)*

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq., as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 (Pub. L. 104–121)), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities.

SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide the statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities. There will be no costs associated with this regulation change because the Service's Office of Law Enforcement has treated hybrids as protected. We have determined that because this regulation change will not have a significant economic impact on a substantial number of small entities, a regulatory flexibility analysis is not required.

This rule is not a major rule under the SBREFA (5 U.S.C. 804 (2)). It will not have a significant impact on a substantial number of small entities.

a. This rule will not have an annual effect on the economy of $100 million or more.

b. This rule will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, Tribal, or local government agencies, or geographic regions.

c. This rule will not have significant adverse effects on competition, employment, investment, productivity,

innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

*Unfunded Mandates Reform Act*

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.), we have determined the following:

a. This rule will not affect small governments. A small government agency plan is not required. Amending the definition of ''hybrid'' at 50 CFR 21.3 will not affect small government activities.

b. This rule will not produce a Federal mandate of $100 million or greater in any year. This rule is not a significant regulatory action.

*Takings*

This rule does not contain a provision for taking of private property. In accordance with Executive Order 12630, a takings implication assessment is not required.

*Federalism*

This rule does not have sufficient Federalism effects to warrant preparation of a Federalism assessment under Executive Order 13132. It will not interfere with the States' abilities to manage themselves or their funds. No significant economic impacts are expected to result from the change in the definition of ''hybrid'' at 50 CFR 21.3.

*Civil Justice Reform*

In accordance with Executive Order 12988, the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

*Paperwork Reduction Act of 1995*

This rule does not contain any new information collections or recordkeeping requirements for which approval from the Office of Management and Budget (OMB) is required under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). We may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

*National Environmental Policy Act*

We have analyzed this rule in accordance with the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 et seq. and Part 516 of the U.S. Department of the Interior Manual (516 DM). The regulation change will have no environmental impact.

*Socioeconomic.* The regulation change will have no discernible socioeconomic impacts.

*Migratory bird populations.* The regulation change will not affect native migratory bird populations.

*Endangered and threatened species.* The regulation change will not affect endangered or threatened species or habitats important to them.

*Government-to-Government Relationship With Tribes*

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, and 512 DM 2, we have determined that there are no potential effects on Federally recognized Indian Tribes from the regulation change. The regulation change will not interfere with Tribes' abilities to manage themselves or their funds, or to regulate migratory bird activities on tribal lands.

*Energy Supply, Distribution, or Use (Executive Order 13211)*

This rule will not affect energy supplies, distribution, or use. This action will not be a significant energy action, and no Statement of Energy Effects is required.

*Compliance With Endangered Species Act Requirements*

Section 7 of the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires that ''The Secretary [of the Interior] shall review other programs administered by him and utilize such programs in furtherance of the purposes of this chapter'' (16 U.S.C. 1536 (a)(1)). It further states that the Secretary must ''insure that any action authorized, funded, or carried out . . . is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat'' (16 U.S.C. 1536 (a)(2)). The regulation change will not affect listed species.

**List of Subjects in 50 CFR Part 21**

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

**Regulation Promulgation**

For the reasons described in the preamble, we amend subchapter B of chapter I, title 50 of the Code of Federal Regulations, as follows:

## PART 21—AMENDED

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

**Authority:** 16 U.S.C. 703–712.

■ 2. Amend § 21.3 by revising the definition of ''hybrid'' to read as follows:

**§ 21.3 Definitions.**

* * * * *

*Hybrid* means any bird that results from a cross of genetic material between two separate taxa when one or both are listed at 50 CFR 10.13, and any progeny of those birds.

* * * * *

Dated: October 21, 2013.

**Rachel Jacobson,**

*Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 2013–26069 Filed 10–31–13; 8:45 am]

BILLING CODE 4310–55–P

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## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## 50 CFR Part 21

**[Docket No. FWS–R9–MB–2012–0037; FF09M21200–134–FXMB1231099BPP0]**

**RIN 1018–AY65**

## Migratory Bird Permits; Depredation Order for Migratory Birds in California

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** We revise the regulations that allow control of depredating birds in California. We specify the counties in which this order is effective, identify the species that may be taken under the order, add a requirement that landowners attempt nonlethal control, add a requirement for use of nontoxic ammunition, and revise the reporting required. These changes update and clarify the current regulations and enhance our ability to carry out our responsibility to conserve migratory birds.

**DATES:** This regulation change will be effective on December 2, 2013.

**ADDRESSES:** This final rule as well as supplementary information used in its development, such as the public comments received, is available at *http://www.regulations.gov* at Docket No. FWS–R9–MB–2012–0037.

**FOR FURTHER INFORMATION CONTACT:** Dr. George T. Allen at 703–358–1825.

**SUPPLEMENTARY INFORMATION:**

### Background

The U.S. Fish and Wildlife Service is the Federal agency delegated the primary responsibility for managing migratory birds. This delegation is

authorized by the Migratory Bird Treaty Act (MBTA, 16 U.S.C. 703 et seq.), which implements conventions with Great Britain (for Canada), Mexico, Japan, and the Soviet Union (Russia). We implement the provisions of the MBTA through regulations in parts 10, 13, 20, 21, and 22 of title 50 of the Code of Federal Regulations (CFR). Regulations pertaining to migratory bird permits are at 50 CFR part 21; subpart D of part 21 contains regulations for the control of depredating birds.

A depredation order allows the take of specific species of migratory birds for specific purposes without need for a depredation permit. The depredation order at 50 CFR 21.44 allows county commissioners of agriculture to authorize take of designated species of depredating birds in California ''as may be necessary to safeguard any agricultural or horticultural crop in the county.'' The current depredation order allows take of horned larks *(Eremophila alpestris),* golden-crowned sparrows *(Zonotrichia atricapilla),* white-crowned sparrows *(Zonotrichia leucophrys),* house finches *(Carpodacus mexicanus),* and ''other crowned sparrows'' where they cause agricultural damage.

On May 13, 2013, we published a proposed rule to update and clarify the regulations that carry out this depredation order (78 FR 27927). Our purpose was to bring the requirements of this depredation order in line with current regulations for other depredation orders under the MBTA and improve our ability to carry out our statutory responsibility to protect and conserve migratory birds.

## Comments on the Proposed Rule

We received five sets of comments on the proposed rule (78 FR 27927, May 13, 2013).

*Comment.* The lack of use of the depredation order outside of Fresno, Merced, Napa, and Sonoma shows that it is used on a limited basis. This does not support the conclusion that it's unnecessary outside of those four counties, instead it shows that it's used judiciously and should remain available for any county that needs it, if nonlethal control methods prove ineffective.

*Response.* We do not wish to leave unused depredation orders in place or have them applicable in locations in which they have not been used. The lack of use of the depredation order outside the four counties for many years indicates that it is not needed there. Agricultural producers in counties outside those covered under the regulation can seek depredation permits to address crop losses due to migratory birds (through the regional offices, see *http://www.fws.gov/migratorybirds/mbpermits/addresses.html*).

*Comment.* ''The main culprit of damage is Horned Lark which accounts for approximately 90% of the damage followed by the Crowned Sparrows. Usually the damage occurs December through April. Horned larks usually feed on the exterior rows of the fields while sparrows feed in the interior of the field so damage is easily distinguishable. In Fresno County, the House Finch rarely causes issues in these crops but does occur in vineyards and similar crops from time to time.''

*Response.* We have reconsidered the likely distribution of horned larks, and will continue to allow their control under the depredation order.

*Comment.* ''The proposed rule also requires that a landowner attempt to use nonlethal control of migratory bird depredation as recommended by the U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Wildlife Services and that the county agriculture commissioner confirm that nonlethal measures have been undertaken to control or eliminate the problem prior to the use of lethal control. While Farm Bureau [California Farm Bureau Federation] supports the use of nonlethal methods when feasible, it is unclear what constitutes an ''attempt.'' It is important to recognize that lethal control can frequently be a significant part of a deterrent program. Often, nonlethal control methods become ineffective and without continued lethal control as a part of a vertebrate pest management program, nonlethal actions won't work. With the proposed change, it is unclear whether lethal control methods could be on going.''

*Response.* We agree that lethal control may be necessary in some instances, so we have retained the regulations allowing for lethal control. However, we also believe it is necessary to try to reduce take of migratory birds through the use of nonlethal controls. It will be easy to report on nonlethal control methods tried, such as the use of netting, the use of abatement raptors, or the use of noisemakers.

*Comment.* ''[A]griculture should be allowed monetary compensation for crop or livestock damage or loss caused by wildlife that agricultural operators are unable to control.''

*Response.* Compensation for agricultural losses due to migratory birds is neither provided for under the MBTA nor funded by Congress. The Federal Government does assist crop producers through the help from the U.S. Department of Agriculture, Animal and Plant Health Inspection Service's Wildlife Services.

## Changes to the Regulations

We revise § 21.44 to:

(1) specify in which California counties this regulation is applicable (Fresno, Merced, Napa, and Sonoma);

(2) identify the species that may be taken (horned larks, house finches, and white-crowned sparrows);

(3) specify the times of year that they may be taken;

(4) require that landowners attempt nonlethal control each year prior to the use of lethal control;

(5) require the use of nontoxic ammunition; and

(6) update the requirement for reporting take under this depredation order. These changes will bring the requirements of this depredation order in line with current regulations for other depredation orders under the MBTA and allow us to better carry out our statutory responsibility to protect and conserve migratory birds.

## Changes From the Proposed Rule

The annual report on activities conducted under the depredation order will require the use of form 3–202–20–2144. We made this change to clarify the reporting requirement.

Based on comments received and the use of the order for horned larks, we add this species to this final rule and slightly change the period during which horned larks and white-crowned sparrows may be taken each year.

## Required Determinations

*Regulatory Planning and Review (Executive Orders 12866 and 13563).*

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) will review all significant rules. OIRA has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that

the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

*Regulatory Flexibility Act (5 U.S.C. 601 et seq.)*

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq., as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 (Pub. L. 104–121)), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small businesses, small organizations, and small government jurisdictions. However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities.

SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide the statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities. Other than a minimal change in the resources needed to address the reporting requirements, there are no costs associated with this regulations change.

We have examined this rule's potential effects on small entities as required by the Regulatory Flexibility Act. Because only four counties have made use of this depredation order, we believe no significant economic impacts to any small entities will result from the revisions. Any agricultural producers who qualify as small entities in those counties could still seek relief from depredating birds under these revisions. Under the current regulations, the county commissioners of agriculture have needed to comply with a reporting requirement, and the changes to this requirement should add minimal burden. Because we have determined that this action will not have a significant economic impact on a substantial number of small entities, a regulatory flexibility analysis is not required.

This rule is not a major rule under the SBREFA (5 U.S.C. 804(2)). It will not have a significant impact on a substantial number of small entities.

a. This rule does not have an annual effect on the economy of $100 million or more.

b. This rule will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, tribal, or local government agencies, or geographic regions.

c. This rule will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

*Unfunded Mandates Reform Act*

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.), we have determined the following:

a. This rule will not ''significantly or uniquely'' affect small governments. A small government agency plan is not required. The revisions will not have significant effects. This regulation will minimally affect small government activities by changing the reporting requirement under the depredation order.

b. This rule will not produce a Federal mandate of $100 million or more in any year. It is not a ''significant regulatory action.''

*Takings*

This rule does not contain a provision for taking of private property. In accordance with Executive Order 12630, a takings implication assessment is not required.

*Federalism*

This rule does not have sufficient Federalism effects to warrant preparation of a Federalism assessment under Executive Order 13132. It will not interfere with the States' abilities to manage themselves or their funds. No significant economic impacts are expected to result from the changes in the depredation order.

*Civil Justice Reform*

In accordance with Executive Order 12988, the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

*Paperwork Reduction Act of 1995*

We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number. Because this rule affects only four county government agencies in California, OMB approval under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) is not required for the annual report under § 21.44(e).

*National Environmental Policy Act*

We have analyzed this rule in accordance with the National Environmental Policy Act (NEPA), 42 U.S.C. 432–437(f), and U.S. Department of the Interior regulations at 43 CFR 46. As outlined in 43 CFR 46.210(h), this regulations changes is categorically excluded from further NEPA analyses because it is a technical change that has primarily economic, social, individual, or institutional effects. This action will have neither a significant effect on the quality of the human or natural environment, nor unresolved conflicts concerning uses of available resources.

*Government-to-Government Relationship With Tribes*

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, and 512 DM 2, we have determined that there are no potential effects on Federally recognized Indian Tribes from the regulations change. The regulations change will not interfere with Tribes' abilities to manage themselves or their funds or to regulate migratory bird activities on Tribal lands.

*Energy Supply, Distribution, or Use (Executive Order 13211)*

This rule only affects depredation control of migratory birds, and will not affect energy supplies, distribution, or use. This action will not be a significant energy action, and no Statement of Energy Effects is required.

*Compliance With Endangered Species Act Requirements*

Section 7 of the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 et seq.), requires that ''The Secretary [of the Interior] shall review other programs administered by him and utilize such programs in furtherance of the purposes of this chapter'' (16 U.S.C. 1536(a)(1)). It further states that the Secretary must insure that any action authorized, funded, or carried out is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of critical habitat (16 U.S.C. 1536(a)(2)). The regulations change will not affect listed species.

**List of Subjects in 50 CFR Part 21**

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

**Regulation Promulgation**

For the reasons described in the preamble, we hereby amend subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

## PART 21—MIGRATORY BIRD PERMITS

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

**Authority:** 16 U.S.C. 703–712.

■ 2. Revise § 21.44 to read as follows:

### § 21.44 Depredation order for horned larks, house finches, and white-crowned sparrows in California.

Horned larks (*Eremophila alpestris*), house finches (*Carpodacus mexicanus*), and white-crowned sparrows (*Zonotrichia leucophrys*) may be taken in Fresno, Merced, Napa, and Sonoma Counties in California if they are depredating on agricultural or horticultural crops. Take of birds under this order must be done under the supervision of the county agriculture commissioner. You do not need a Federal permit for this depredation control as long as you meet the conditions below, but a depredation permit (see § 21.41 in this subpart) is required for take of other migratory bird species, or for take of horned larks or white-crowned sparrows from May 1 through October 31.

(a) *When is take allowed under this depredation order?*

(1) Horned larks and white-crowned sparrows may be controlled from November 1 through April 30.

(2) House finches may be controlled at any time.

(b) *Use of nonlethal control.* Each season, before lethal control may be undertaken, the landowner must attempt to use nonlethal control of migratory bird depredation as recommended by the U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Wildlife Services. The county agriculture commissioner must confirm that nonlethal measures have been undertaken to control or eliminate the problem prior to the landowner using lethal control.

(c) *Ammunition.* Except when using an air rifle or an air pistol, if firearms are used to kill migratory birds under the provisions of this regulation, the shooter must use nontoxic shot or nontoxic bullets to do so. See § 20.21(j) of this chapter for a listing of approved nontoxic shot types.

(d) *Disposition of carcasses.* Specimens useful for scientific purposes may be transferred to any entity authorized to possess them. If not transferred, all carcasses of birds killed under this order must be buried or otherwise destroyed. None of the above migratory birds killed, or the parts thereof, or the plumage of such birds, may be sold or removed from the area where killed.

(e) *Annual report.* Any county official acting under this depredation order must provide an annual report to the Regional Migratory Bird Permit Office using FWS Form 3–202–20–2144. The address for the Regional Migratory Bird Permit Office is in § 2.2 of subchapter A of this chapter, and is on the form. The report is due by January 31st of the year after control activities are undertaken.

Dated: September 17, 2013.

**Michael J. Bean,**

*Acting Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 2013–26064 Filed 10–31–13; 8:45 am]

BILLING CODE 4310–55–P

# Proposed Rules

Federal Register
Vol. 78, No. 212
Friday, November 1, 2013

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

### Rural Housing Service

### 7 CFR Part 3550

**RIN 0575–AC88**

### Single Family Housing Direct Loan Program

**AGENCY:** Rural Housing Service, USDA.

**ACTION:** Proposed rule and information collection; extension of public comment period.

**SUMMARY:** Through this action, the Rural Housing Service (RHS) is extending the comment period for the proposed rule, ''Single Family Housing Direct Loan Program'' from October 22, 2013 to November 22, 2013.

**DATES:** Comments on the proposed rule and the information collection under the Paperwork Reduction Act of 1995 must be received on or before November 22, 2013.

**ADDRESSES:** You may submit comments to this rule by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Submit written comments via the U.S. Postal Service to the Branch Chief, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, STOP 0742, 1400 Independence Avenue SW., Washington, DC 20250–0742.
- *Hand Delivery/Courier:* Submit written comments via Federal Express Mail or another mail courier service requiring a street address to the Branch Chief, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, 300 7th Street SW., 7th Floor, Suite 701, Washington, DC 20024.

All written comments will be available for public inspection during regular work hours at the 300 7th Street SW., address listed above.

**FOR FURTHER INFORMATION CONTACT:** Brooke Baumann, Finance and Loan Analyst, Single Family Housing Direct Loan Division, USDA Rural Development, Stop 0783, 1400 Independence Avenue SW., Washington, DC 20250–0783, Telephone: 202–690–4250. Email: *brooke.baumann@wdc.usda.gov.*

**SUPPLEMENTARY INFORMATION:** On August 23, 2013, Rural Development published a proposed rule in the **Federal Register** (78 FR 52460), ''Single Family Housing Direct Loan Program.''

In the proposed rule, RHS is proposing to amend its regulations for the section 502 direct single family housing loan program to create a certified loan application packaging process for eligible loan application packagers. Loan application packagers, who are separate and independent from the Agency, provide an optional service to parties seeking mortgage loans by helping them navigate the loan application process. Currently, packagers assisting parties applying for section 502 direct loans do so under an informal arrangement, which is free from Agency oversight or minimum competency standards. This proposed rule will impose experience, training, proficiency, and structure requirements on eligible service providers. This proposed rule also regulates the packaging fee that will be allowed under this process.

By establishing a vast network of competent, experienced, and committed Agency-certified packagers, this action is intended to benefit low- and very low-income people who wish to achieve homeownership in rural areas by increasing their awareness of the Agency's housing program, increasing specialized support available to them to complete the application for assistance, and improving the quality of loan application packages submitted on their behalf.

Due to the lapse in federal funding that caused a partial closing of federal government operations from October 1 through October 16, 2013, RHS is extending the public comment period for its proposed rule to create a certified loan application packaging process, originally published on August 23, 2013, in 78 FR 52460, to November 22, 2013.

### USDA Nondiscrimination Statement

The U.S. Department of Agriculture (USDA) prohibits discrimination against its customers, employees, and applicants for employment on the bases of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited bases will apply to all programs and/or employment activities.)

If you wish to file a Civil Rights program complaint of discrimination, complete the *USDA Program Discrimination Complaint Form* (PDF), found online at *http://www.ascr.usda.gov/complaint_filing_cust.html,* or at any USDA office, or call (866) 632–9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW., Washington, DC 20250–9410, by fax (202) 690–7442 or email at *program.intake@usda.gov.*

Individuals who are deaf, hard of hearing or have speech disabilities and you wish to file either an EEO or program complaint please contact USDA through the Federal Relay Service at (800) 877–8339 or (800) 845–6136 (in Spanish).

Persons with disabilities, who wish to file a program complaint, please see information above on how to contact us by mail directly or by email. If you require alternative means of communication for program information (e.g., Braille, large print, audiotape, etc.) please contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Dated: October 25, 2013.

**Richard A. Davis,**

*Acting Administrator, Rural Housing Service.*

[FR Doc. 2013–26124 Filed 10–31–13; 8:45 am]

BILLING CODE 3410–XV–P

**NATIONAL CREDIT UNION ADMINISTRATION**

**12 CFR Part 702**

**RIN 3133–AE27**

## Capital Planning and Stress Testing

**AGENCY:** National Credit Union Administration (NCUA).

**ACTION:** Proposed rule with request for comment.

**SUMMARY:** NCUA proposes to conduct annual stress tests of federally insured credit unions (FICUs) with assets of $10 billion or more. NCUA further proposes to require those credit unions to develop and maintain capital plans.

**DATES:** Comments must be received on or before December 31, 2013.

**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 Rule—Capital Planning and Stress Testing'' in the email subject line.
- *Fax:* (703) 518–6319. Use the subject line described above for email.
- *Mail:* Address to Gerard 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:** Jeremy Taylor, Senior Capital Markets Specialist, Office of National Examinations and Supervision, at the above address or telephone (703) 518–6640; Dale Klein, Senior Capital Markets Specialist, Office of Examination and Insurance, at the above address or telephone (703) 518–6360; or Lisa Henderson, Staff Attorney, Office of General Counsel, at the above address or telephone (703) 518–6540.

**SUPPLEMENTARY INFORMATION:**

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III. Regulatory Procedures

### I. Background

The NCUA Board (Board) has determined, to protect the National Credit Union Share Insurance Fund (NCUSIF) and the credit union system, that the largest FICUs should have systems and processes to monitor and maintain their capital adequacy. This notice of proposed rulemaking (NPRM) requires FICUs with assets of $10 billion or more (covered credit unions) to submit capital plans annually to NCUA. The Board has also determined that stress testing of these larger FICUs would provide useful information for both NCUA and the FICUs. This NPRM describes the stress testing NCUA will conduct of covered credit unions.

The Board of Governors of the Federal Reserve System (Federal Reserve) requires large bank holding companies to submit capital plans to the Federal Reserve.[1] The requirement supports the Federal Reserve's expectation that large bank holding companies have robust systems and processes that incorporate forward-looking projections of revenue and losses to monitor and maintain their internal capital adequacy.[2] The Federal Reserve, the Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC) have issued regulations, pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act), requiring their supervised institutions to conduct annual stress tests.[3]

### II. Proposed Rule

#### *A. Credit Union Capital Planning and Analysis*

The proposed rule requires covered credit unions to develop and maintain a capital plan and submit this plan to NCUA by March 31 of each year. NCUA took into account the risk to the NCUSIF of the largest FICUs as it considered the need for capital plans at these institutions. The size of these institutions relative to the NCUSIF makes capital planning essential. As of June 2013, NCUSIF equity was $11.2 billion, and the assets of the largest FICUs that would be covered by this rule totaled $108.5 billion—nearly 10 times the size of the NCUSIF. The net worth of these FICUs was $10.8 billion as a cushion against the risks of these assets. At the same time, NCUA must maintain the NCUSIF against the risks of all FICUs, large and small. As of June 2013, the aggregate assets of all FICUs in the system was $1.06 trillion, with a net worth of $111.0 billion. The concentration of the NCUSIF's exposure to risks at the largest FICUs is therefore clear, as is the associated need for safe and sound capital planning at these FICUs to ensure the adequacy of their net worth. Losses by FICUs with assets of $10 billion or more would likely require replenishment of the NCUSIF by all FICUs through assessments. NCUA is protecting the NCUSIF and the interests of all FICU members by making this proposed rule applicable to the largest FICUs.

Under the proposed rule, mandatory elements of the covered credit unions' capital plans start with an assessment of each credit union's sources and levels of capital over the planning horizon, taking into consideration its financial condition, size, risk profile, scope of operations, and existing capital. The credit union must assume both expected and adverse conditions. The credit union must also discuss in its capital plan how it will maintain ready access to funding to meet its obligations and continue to serve as an intermediary for its members. The capital plan must also take into account any expected changes to the credit union's business plan that will materially affect the capital adequacy or liquidity of the credit union.

The proposed rule requires a covered credit union to perform specific capital analyses. At a minimum, covered credit unions must conduct a sensitivity analysis to evaluate the effect on capital of changes in variables, parameters, and inputs used by the credit union in its capital plans. Credit unions must also test the impact of interest rate shocks of at least ± 300 basis points on the net economic value of the credit union, using final maturities of non-maturity shares not exceeding two years. Covered credit unions must also analyze the impact of credit risk to capital under unfavorable conditions, both separately and in combination with unfavorable interest rate scenarios.

#### *B. Applicability*

The proposed rule would apply to all FICUs that report $10 billion or more in assets on their March 31 Call Report. For example, if a FICU reports $10 billion or more in assets on March 31, 2014, it would be required to evaluate its capital under unfavorable conditions and submit a capital plan by March 31,

[1] 76 FR 74631 (Dec. 1, 2011).

[2] *Id.*

[3] *See* 77 FR 61238 (Oct. 9, 2012); 77 FR 62378 (Oct. 12, 2012); 77 FR 62396 (Oct. 12, 2012); 77 FR 62417 (Oct. 15, 2012).

2015. The specific details of the required capital plan and accompanying capital analysis are discussed below.

*C. Governance of Capital Planning and Analysis*

To emphasize the importance of credit union board oversight of the capital planning and analysis process, the proposed rule provides that a covered credit union's board of directors is expected to understand and approve processes that are consistent with the financial condition, size, complexity, risk profile, scope of operations, and level of regulatory capital of the credit union.

Senior management with responsibility for accomplishing these critical objectives must take into account all of the complexities of the credit union's risk exposures and operations. The capital planning process should reflect the risk management of the credit union, and senior management responsible for establishing and maintaining the capital planning functions should report directly to the board of directors.

The capital analysis policy approved by the covered credit union's board should be established and reviewed in conjunction with the credit union's capital plan. NCUA will consider these together in assessing the safety and soundness of a credit union.

*D. NCUA Action on Capital Plans*

Under the proposed rule, NCUA will notify a covered credit union of the agency's acceptance or rejection of the capital plan by June 30 of the year it is submitted. NCUA may reject the plan if there are material unresolved supervisory issues associated with the planning process. NCUA may also reject the plan if the assumptions, methodologies, or analysis underlying the plan are not reasonable or appropriate or if the data used lacks integrity or is not sufficiently detailed. In the event NCUA objects to the credit union's capital plan, the credit union must update and re-submit a plan within 30 days of receiving notice of the objection. The plan must address deficiencies identified by NCUA and remediation for any unresolved supervisory issues which have been identified as contributing to the rejection of the plan.

Any covered credit union operating without an NCUA-approved capital plan after September 30 of the year in which the plan was submitted will be subject to supervisory actions on the part of NCUA. Before taking any action on the capital plan of a federally insured, state-chartered credit union, NCUA will consult with the applicable state supervisory authority.

*E. Annual Supervisory Stress Testing*

NCUA will conduct independent stress tests on all covered credit unions based on September 30 financial data. These stress tests are for the agency to independently conduct forward-looking assessments of risk vulnerabilities and stress test capital positions in the credit unions. NCUA will provide a description of the baseline, adverse, and severely adverse scenarios underlying the test by December 1 of the same year. The scenarios will be based on those developed by the Federal Reserve, the FDIC, and the OCC for their regulated institutions, although there may be variations based on credit union-specific factors. If NCUA's stress test shows that a covered credit union does not have the ability to maintain a stress test capital ratio of at least 5 percent on a pro-forma basis under expected and stressed conditions throughout the 9-quarter stress test period, NCUA will require the credit union to take steps to enhance capital and/or may take other supervisory action against the credit union.

In arriving at a minimum stress test capital ratio of 5 percent, NCUA considered minimum net worth ratio requirements under the Prompt Corrective Action regulation.[4] NCUA considers a credit union to be significantly undercapitalized when its net worth ratio is between 2 percent and 3.99 percent, and critically undercapitalized when its ratio is less than 2 percent. A minimum stress test capital ratio requirement is intended to provide prospective information of credit union capital adequacy. NCUA believes that a minimum ratio of 5 percent allows for a credit union to take corrective measures before it becomes significantly or critically undercapitalized. Under these latter two classifications, the credit union's operating environment would be influenced by mandatory, discretionary and other supervisory actions, enhanced public scrutiny, and member concern over the safety of its deposits leading to abnormal withdrawals. These pressures may limit the credit union's ability to restore confidence and its financial soundness in a timely manner, thus jeopardizing future viability.

In establishing a 5 percent ratio, NCUA also considered the minimum leverage ratio for banks, which is now 4 percent.[5] While the banking agencies' leverage ratio is not identical to NCUA's proposed stress test capital ratio, it is the most comparable of the banking capital ratios. NCUA is setting the minimum stress test capital ratio higher than the leverage ratio in recognition of the fact that credit unions cannot raise capital in the form of stockholder equity. Most credit unions can replenish depleted capital only through the retention of earnings, which may be especially difficult in times of stress. Credit unions must, therefore, anticipate any need to retain additional earnings. The stress test process, combined with the 5 percent minimum ratio, prepares them to do this.

The net worth ratio contains components that do not constitute core capital on which a credit union may rely to offset losses. The proposed regulation excludes the following components from the definition of stress test capital ratio:

- assistance through Section 208 of the Federal Credit Union Act,
- subordinated debt for low-income credit unions, and
- the credit union's NCUSIF deposit.

There are several reasons for these exclusions. Stress tests are intended to show the impact of events on a credit union's own capital, and therefore will not include assistance provided by NCUA. The largest credit unions are unlikely to be designated as low-income. Only low-income credit unions are authorized by statute to count subordinated debt as capital. In any event, NCUA believes the largest credit unions should be supported by their own capital under stressed conditions. The NCUSIF deposit is carried by credit unions as an asset rather than being expensed. It therefore elevates credit union net worth ratios compared to banks without representing capital on which a credit union may draw to absorb losses from stresses as they occur.

As noted above, if NCUA's stress test indicates a covered credit union cannot maintain a minimum stress test capital ratio of 5 percent under expected and stressed conditions throughout the 9-quarter stress test period, NCUA will require the credit union to include actions and timeframes for enhancement of stress test capital. These actions may be to accumulate capital, to reduce risks to capital or a combination of the two. If a covered credit union's stress test capital ratio indicates serious safety and soundness concerns, NCUA will take supervisory actions at its discretion. Before taking any action on the stress test of a federally insured, state-chartered credit union, NCUA will consult with the applicable state supervisory authority.

[4] 12 CFR part 702.

[5] *See* 78 FR 62018 (Oct. 11, 2013).

The Board notes that the Federal Reserve, OCC, and FDIC require their covered institutions to conduct their own stress testing based on agency-provided baseline, adverse, and severely adverse scenarios. The Board seeks comment on whether NCUA should similarly require covered credit unions to conduct their own stress testing.

*F. Public Disclosure*

The Board also notes that the Federal Reserve, OCC, and FDIC require their covered institutions to publicly disclose the results of their stress tests. The Board recognizes that public disclosure helps to provide valuable information to market participants, enhances transparency, and facilitates market discipline. However, the Board also understands that stress test results can be misinterpreted and lead to inaccurate conclusions about the health of an institution. The Board seeks comment on the benefits and costs associated with credit union-specific disclosures, specific concerns about the possible release of a credit union's proprietary information, and alternatives to credit union-specific disclosures that could still provide useful information to the membership or the public.

*G. Process Overview.*

Table 1 describes the capital planning and NCUA stress testing process under this proposed rule, including the anticipated general timelines for each step.

TABLE 1—PROCESS OVERVIEW OF CAPITAL PLANNING AND ANNUAL STRESS TEST REQUIREMENTS UNDER THIS PROPOSED RULE

| Timeframe | Steps |
|---|---|
| September 30 | "As of" date for covered credit union's capital plan and NCUA's stress test data. |
| by December 1 | NCUA releases scenarios on which it will conduct independent stress tests. |
| by March 31 | Covered credit union submits capital plan to NCUA. |
| by May 31 | NCUA provides stress test results to covered credit union. |
| by June 30 | NCUA approves or rejects capital plan. |
| by September 30 | Covered credit union must have an NCUA-approved capital plan. |

The Board emphasizes that credit union capital planning and NCUA's stress testing have different timelines. While covered credit unions may choose to perform their own stress tests, NCUA will rely on the independent stress testing described in this proposed rule to measure a covered credit union's stress test capital ratio. However, if a covered credit union fails the NCUA stress test and must provide a stress test capital enhancement plan under § 702.506(e), the credit union must incorporate this enhancement plan into the § 702.503 capital plan submitted the following year.

**III. Regulatory Procedures**

*a. Regulatory Flexibility Act*

The Regulatory Flexibility Act requires NCUA to prepare an analysis of any significant economic impact any proposed regulation may have on a substantial number of small entities (primarily those under $50 million in assets).[6] Because the proposed rule only applies to credit unions with $10 billion or more in assets, it will not have any economic impact on small credit unions.

*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 increases an existing burden.[7] For purposes of the PRA, a paperwork burden may take the form of a reporting or recordkeeping requirement, both referred to as information collections. The proposed changes to part 702 impose new information collection requirements. As required by the PRA, NCUA is submitting a copy of this proposal to OMB for its review and approval. Persons interested in submitting comments with respect to the information collection aspects of the proposed rule should submit them to OMB at the address noted below.

1. Estimated PRA Burden

The information collection requirements are found in sections 702.503, 702.504, 702.505, and 702.506 of the proposed rule.

Section 702.503(a) requires a covered credit union to develop and maintain a capital plan and to submit the plan to NCUA by March 31 of a given year. Section 702.506(a) further requires a covered credit union's board of directors or a designated committee to review and approve the covered credit union's capital plan prior to its submission to NCUA.

Section 702.503(b) provides the list of mandatory elements to be included in the capital plan.

Section 702.504 provides that the senior management of a covered credit union must establish and maintain a system of controls, oversight, and documentation designed to ensure that the capital planning and analysis processes satisfy the requirements in this part.

Section 702.505(d) provides that within 30 calendar days of receipt of a notice of rejection by NCUA of a covered credit union's capital plan, under section 702.505(c), the covered credit union must update and re-submit its capital plan to NCUA.

Section 702.506(c) requires a covered credit union to provide any relevant qualitative or quantitative information requested by NCUA to conduct the supervisory stress test.

Summary of Burden

As of June 30, 2013, there were four FICUs with assets of $10 billion or more.

| | Number of respondents | Annual frequency | Hourly estimate | Total hours |
|---|---|---|---|---|
| Initial Paperwork Burden: | | | | |
| Initial Report | 4 | 1 | 500 | 2,000 |
| Ongoing Paperwork Burden: | | | | |
| Annual Report | 4 | 1 | 250 | 1,000 |

[6] 5 U.S.C. 603(a).

[7] 44 U.S.C. 3507(d); 5 CFR part 1320.

2. Submission of comments

NCUA considers comments by the public on this proposed collection of information in:

- Evaluating whether the proposed collection of information is necessary for the proper performance of the functions of NCUA, including whether the information will have a practical use;
- Evaluating the accuracy of NCUA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of 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.

The PRA requires OMB to make a decision concerning the collection of information contained in the proposed regulation between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to NCUA on the substantive aspects of the proposed regulation.

Comments on the proposed information collection requirements should be sent to: Office of Information and Regulatory Affairs, OMB, New Executive Office Building, Washington, DC 20503; Attention: NCUA Desk Officer, with a copy to Gerard Poliquin, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.

*c. Executive Order 13132*

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order to adhere to fundamental federalism principles. The proposed rule does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. NCUA has, therefore, determined that this proposal does not constitute a policy that has federalism implications for purposes of the executive order.

*d. Assessment of Federal Regulations and Policies on Families*

NCUA has determined that this proposed rule will not affect family well-being within the meaning of § 654 of the Treasury and General Government Appropriations Act, 1999, Pub. L. 105–277, 112 Stat. 2681 (1998).

**List of Subjects in 12 CFR Part 702**

Credit unions, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board, on October 24, 2013.

**Gerard Poliquin,**

*Secretary of the Board.*

For the reasons discussed above, the National Credit Union Administration proposes to amend part 702 as follows:

## PART 702—CAPITAL ADEQUACY

■ 1. The authority citation for part 702 continues to read as follows:

**Authority:** 12 U.S.C. 1766(a), 1790d.

■ 2. The heading for part 702 is revised to read as set forth above.

■ 3. Add subpart E to read as follows:

**Subpart E—Capital Planning and Stress Testing**

Sec.
702.501 Authority, purpose, and reservation of authority.
702.502 Definitions.
702.503 Credit union capital planning.
702.504 Governance of capital planning and analysis.
702.505 NCUA action on capital plans
702.506 Annual supervisory stress testing.

### Subpart E—Capital Planning and Stress Testing

**§ 702.501 Authority, purpose, and reservation of authority.**

(a) *Authority.* This subpart is issued by the National Credit Union Administration (NCUA).

(b) *Purpose.* This subpart requires covered credit unions to develop and maintain capital plans and describes NCUA stress testing and actions on credit union capital plans.

(c) *Reservation of authority.* Notwithstanding any other provisions of this subpart, NCUA may modify some or all of the requirements of this subpart. Any exercise of authority under this section by NCUA will be in writing and will consider the financial condition, size, complexity, risk profile, scope of operations, and level of regulatory capital of the covered credit union, in addition to any other relevant factors. Nothing in this subpart limits the authority of NCUA under any other provision of law or regulation to take supervisory or enforcement action, including action to address unsafe and unsound practices or conditions, or violations of law or regulation.

**§ 702.502 Definitions.**

*For purposes of this subpart—*

*Adverse scenario* means a scenario that is more adverse than that associated with the baseline scenario.

*Baseline scenario* means a scenario that reflects the consensus views of the economic and financial outlook.

*Capital plan* means a written presentation of a covered credit union's capital planning strategies and capital adequacy process that includes the mandatory elements set forth in this subpart.

*Capital policy* means a covered credit union's written assessment of the principles and guidelines used for capital planning, including analyzing capital, establishing capital levels, describing the strategies for addressing potential capital shortfalls, and describing the internal governance procedures around capital policy principles and guidelines.

*Covered credit union* means a federally insured credit union whose assets were $10 billion or more on March 31 of the current calendar year.

*Planning horizon* means the period of at least three years over which the relevant projections extend.

*Pre-provision net revenue* means the sum of net interest income and non-interest income, less expenses, before adjusting for loss provisions.

*Provision for loan and lease losses* means the provision for loan and lease losses as reported by the covered credit union on its Call Report.

*Scenarios* are those sets of conditions that affect the U.S. economy or the financial condition of a covered credit union that NCUA annually uses to conduct stress tests, including, but not limited to, baseline, adverse, and severely adverse scenarios.

*Severely adverse scenario* means a scenario that overall is more severe than that associated with the adverse scenario.

*Stress test* means the process to assess the potential impact of expected and stressed economic conditions on the consolidated earnings, losses, and capital of a covered credit union over the planning horizon, taking into account the current state of the covered credit union and the covered credit union's risks, exposures, strategies, and activities.

*Stress test capital* means net worth (less assistance provided under Section

208 of the Federal Credit Union Act, subordinated debt included in net worth, and NCUSIF deposit) under stress test scenarios.

*Stress test capital ratio* means a covered credit union's stress test capital divided by its total consolidated assets less NCUSIF deposit.

**§ 702.503 Credit union capital planning.**

(a) *General requirements—Annual capital planning.* (1) A covered credit union must develop and maintain a capital plan.

(2) A covered credit union must submit its complete capital plan to NCUA each year by March 31, or such later date as directed by NCUA. The plan must be based on the credit union's financial data as of September 30 of the previous calendar year.

(3) The covered credit union's board of directors or a designated committee thereof must at least annually and prior to submission of the capital plan under paragraph (a)(2) of this section:

(i) Review the credit union's process for assessing capital adequacy;

(ii) Ensure that any deficiencies in the credit union's process for assessing capital adequacy are appropriately remedied; and

(iii) Approve the credit union's capital plan and capital planning policy.

(b) *Mandatory elements of capital plan.* A capital plan must contain at least the following elements:

(1) A quarterly assessment of the expected sources and levels of capital over the planning horizon that reflects the covered credit union's financial state, size, complexity, risk profile, scope of operations, and existing level of capital, assuming both expected and unfavorable conditions, including:

(i) Estimates of projected revenues, losses, reserves, and pro forma capital levels, over each quarter of the planning horizon under expected conditions and under a range of unfavorable conditions, appropriate to its financial state, size, complexity, risk profile, and scope of operations; and

(ii) A detailed description of the credit union's process for assessing capital adequacy.

(2) A discussion of how the covered credit union will, under expected and unfavorable conditions, maintain capital commensurate with its risks.

(3) A discussion of how the covered credit union will, under expected and unfavorable conditions, maintain ready access to funding, meeting its obligations to all creditors and other counterparties and continuing to serve as an intermediary for its members.

(4) The covered credit union's capital policy.

(5) A discussion of any expected changes to the covered credit union's business plan that are likely to have a material impact on the credit union's capital adequacy and liquidity.

(c) *Mandatory credit union capital analysis.* As a fundamental part of its capital planning process, a covered credit union must, at a minimum, conduct the capital analyses set forth in paragraphs (c)(1) through (3) of this section.

(1) A covered credit union must conduct a sensitivity analysis to evaluate the effect on its capital of changes in variables, parameters, and inputs used by the credit union in preparing its capital plan.

(2) A covered credit union must perform an analysis of the net economic value of the credit union using interest rate risk shocks of at least +/- 300 basis points. This analysis must assume all non-maturity shares have final maturities not exceeding two years.

(3) A covered credit union must analyze the impact of credit risk to capital under unfavorable economic conditions, both separately and in combination with the impact of unfavorable interest rate scenarios.

**§ 702.504 Governance of capital planning and analysis.**

*(a) General requirements.* The extent and sophistication of a covered credit union's governance over its capital planning and analysis process must align with the extent and sophistication of that process. The process must be consistent with the financial condition, size, complexity, risk profile, scope of operations, and level of regulatory capital of the covered credit union. Governance over a covered credit union's capital planning and analysis process must rest with the credit union's board of directors. Senior management must establish a comprehensive, integrated, and effective process that fits into the broader risk management of the credit union. Accordingly, senior management responsible for capital planning and analysis must report directly to the credit union's board of directors or a designated committee of the board. NCUA will assess whether the capital planning and analysis process is sufficiently robust in determining whether to accept a credit union's capital plan.

(b) *Capital analysis policy.* The board of directors must review and approve a capital analysis policy, along with procedures to implement it, at least annually in conjunction with the covered credit union's capital plan. The capital analysis policy must:

(1) State the governance over the capital analysis process, including all the activities that contribute to the analysis;

(2) Articulate consistent and sufficiently rigorous capital analysis practices across the entire credit union;

(3) Specify capital analysis roles and responsibilities, including controls over external resources used for any part of capital analysis (such as vendors and data providers);

(4) Describe the frequency with which capital analyses will be conducted;

(5) State how capital analysis results are used, and by whom, and outline instances in which remedial actions must be taken; and

(6) Require review, at least annually, and update the capital analysis process as necessary to ensure that it remains current with changes in market conditions, credit union products and strategies, credit union exposures and activities, the credit union's established risk appetite, and industry practices.

**§ 702.505 NCUA action on capital plans.**

(a) *Timing.* NCUA will notify the covered credit union of the acceptance or rejection of its capital plan by June 30 of the calendar year in which the capital plan was submitted.

(b) *Grounds for rejection of capital plan.* NCUA may reject a capital plan if it determines that:

(1) The covered credit union has material unresolved supervisory issues associated with its capital planning process;

(2) The assumptions and analysis underlying the covered credit union's capital plan, or the covered credit union's methodologies for reviewing the robustness of its capital adequacy, are not reasonable or appropriate;

(3) Data utilized for analysis is insufficiently detailed to capture the risks of the covered credit union, or the data lacks integrity; or

(4) The covered credit union's capital planning process constitutes an unsafe or unsound practice, or would violate any law, regulation, NCUA order, directive, or any condition imposed by, or written agreement with, NCUA. In determining whether a capital plan would constitute an unsafe or unsound practice, NCUA considers whether the covered credit union is and would remain in sound financial condition after giving effect to the capital plan.

(c) *Notification in writing.* NCUA will notify the credit union in writing of the reasons for a decision to reject a capital plan.

(d) *Re-submission of a capital plan.* If NCUA rejects a credit union's capital plan, the credit union must update and

re-submit its capital plan to NCUA within 30 calendar days. The resubmitted capital plan must at a minimum address:

(1) NCUA-noted deficiencies in the credit union's original capital plan; and

(2) Remediation plans for unresolved supervisory issues contributing to the rejection of the credit union's original capital plan.

(e) *Supervisory actions.* Any covered credit union operating without an NCUA-approved capital plan after September 30 of the year in which the plan was submitted will be subject to supervisory actions on the part of NCUA.

(f) *Federally insured, state-chartered credit unions.* Before taking any action under this section on the capital plan of a federally insured, state-chartered credit union, NCUA will consult with the applicable state supervisory authority.

**§ 702.506 Annual supervisory stress testing.**

(a) *NCUA tests.* NCUA will conduct an annual stress test of each covered credit union using baseline, adverse, and severely adverse scenarios. NCUA will provide a description of those scenarios by December 1 of a calendar year and will conduct the stress test using the credit union's financial data as of September 30 of that year. NCUA stress test analysis will take into account all relevant exposures and activities of a credit union to evaluate its ability to absorb losses in specified scenarios over a 9-quarter horizon. The minimum target stress test capital ratio for covered credit unions is 5 percent.

(b) *Potential impact on capital.* In conducting a stress test under this subpart, during each quarter of the stress test horizon, NCUA will estimate the following for each scenario for each covered credit union:

(1) Pre-provision net revenues, loan and lease loss provisions, and net income; and

(2) The potential impact on the stress test capital ratio, incorporating the effects of any capital action over the stress test horizon and maintenance of an allowance for loan losses appropriate for credit exposures throughout the horizon. NCUA will conduct the stress test without assuming any risk mitigation actions on the part of the covered credit union, except those existing and identified as part of the covered credit union's balance sheet, or off-balance sheet positions, such as assets sales or derivatives positions, on the date of the stress test.

(c) *Information collection.* Upon request, the covered credit union must provide NCUA with any relevant qualitative or quantitative information requested by NCUA to conduct the stress test under this section.

(d) *Stress test results.* NCUA will provide each covered credit union with the results of the stress test by May 31 of the year following the September 30 ''as of'' testing date.

(e) *Supervisory actions.* If NCUA stress tests show that covered credit union does not have the ability to maintain a stress test capital ratio of 5 percent or more on a pro forma basis under expected and stressed conditions throughout the 9-quarter horizon, the credit union must provide NCUA, within 60 days of receipt of the stress test results, a stress test capital enhancement plan showing how it will meet that target. Failure to do so will subject a covered credit union to supervisory actions on the part of NCUA.

(f) *Federally insured, state-chartered credit unions.* Before taking any action under this section against a federally insured, state-chartered credit union, NCUA will consult with the applicable state supervisory authority.

[FR Doc. 2013–25713 Filed 10–31–13; 8:45 am]

BILLING CODE 7535–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Chapter I

**[Docket No. FDA–2013–N–0001]**

### Medical Gas Regulation Review; Announcement of Public Meeting

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of public meeting.

The Food and Drug Administration (FDA) is announcing a public meeting on whether any changes to Federal drug regulations are necessary for medical gases. The topic to be discussed is whether any changes to the Federal drug regulations are necessary for medical gases as part of the implementation of the Food and Drug Administration Safety and Innovation Act (FDASIA).

*Date and Time:* The meeting will be held on December 6, 2013, from 9 a.m. to 5 p.m. However, depending on the level of public participation, the meeting may be extended or may end early.

*Location:* The meeting will be held at FDA's White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503A), Silver Spring, MD 20993–0002. The FDA Conference Center at the White Oak location is a Federal facility with security procedures and limited seating (please note that all visitors to the White Oak Campus must enter through Building 1). The meeting is free and seating will be on a first-come, first-served basis. Attendees who do not wish to make an oral presentation do not need to register.

*Contact Persons:* Mary Gross, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20903–0002, 301–796–3519, FAX: 301–847–8753, email: *Mary.Gross@fda.hhs.gov;* or Christine Kirk, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20903–0002, 301–796–2465, FAX: 301–847–8440, email: *Christine.Kirk@fda.hhs.gov;* or Urvi Desai, Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, email: *Urvi.Desai@fda.hhs.gov.*

*Registration and Requests for Oral Presentations:* If you wish to a make an oral presentation, you must register by submitting your name, title, firm name, address, telephone, email address, and FAX number, to Mary Gross (see *Contact Persons*) by December 2, 2013. Please also provide the type of organization you represent (e.g., industry, consumer organization), and a brief summary of your remarks (including the discussion topic(s) that will be addressed).

FDA will try to accommodate all persons who wish to make a presentation; however, the duration of each speaker's presentation may be limited by time constraints. FDA will notify registered presenters of their scheduled presentation times. Persons registered to speak should check in before the meeting and are encouraged to arrive early to ensure their designated order of presentation. Participants who are not present when called may not be permitted to speak at a later time. An agenda of the meeting will be made available at least 3 days before the meeting at *http://www.fda.gov/Drugs/NewEvents/ucm370351.htm.*

This public meeting will be Webcast and the URL will be posted at *http://www.fda.gov/Drugs/NewEvents/ucm370351.htm* at least 1 day before the meeting. A video record of the public meeting will be available at the same Web site address for 1 year. If you need special accommodations because of disability, please contact Mary Gross (see *Contact Persons*) at least 7 days in advance.

*Comments:* Regardless of attendance at the public meeting, interested persons may submit electronic comments to *http://www.regulations.gov* or written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5600 Fishers Lane, rm. 1061, Rockville, MD 20852. It is only necessary to send one set of comments. Identify comments with Docket No. FDA–2013–N–0260, which has previously been established to accept comments regarding this issue. In order to receive consideration in advance of the delivery of the report (discussed further in this document), comments must be received by December 16, 2013. 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.*

*Transcripts:* Please be advised that as soon as a transcript is available, it will be accessible at *http://www.regulations.gov.* It may be viewed at the Division of Dockets Management (see *Comments*). A transcript will also be available in either hardcopy or on CD–ROM, after submission of a Freedom of Information request. Send written requests to the Division of Freedom of Information (ELEM–1029), Food and Drug Administration, 12420 Parklawn Dr., Element Bldg., Rockville, MD 20857.

**SUPPLEMENTARY INFORMATION:**

## I. Background

On July 9, 2012, President Obama signed FDASIA (Pub. L. 112–144) into law. Section 1112(a) of FDASIA provides that not later than 18 months after its enactment, the Secretary, after obtaining input from medical gas manufacturers and any other interested members of the public, shall determine whether any changes to the Federal drug regulations are necessary for medical gases and submit a report regarding any such changes to the Committee on Health, Education, Labor, and Pensions of the U.S. Senate and the Committee on Energy and Commerce of the U.S. House of Representatives. Section 1112(c)(1) defines ''Federal drug regulations'' to mean ''regulations in title 21 of the Code of Federal Regulations pertaining to drugs.'' Section 1112(b) provides that if the Secretary determines that changes to the Federal drug regulations are necessary for medical gases, the Secretary shall issue final regulations revising the Federal drug regulations with respect to medical gases not later than 48 months after the enactment of FDASIA.

On March 22, 2013, FDA issued a **Federal Register** notice (78 FR 17611), which established a public docket (Docket No. FDA–2013–N–0260) to request comments from medical gas manufacturers and any other interested members of the public on whether any changes to Federal drug regulations are necessary for medical gases.

## II. Purpose and Scope of the Meeting

We are holding this meeting to provide an additional opportunity for medical gas manufacturers and any other interested members of the public to provide input on whether any changes to Federal drug regulations are needed for medical gases.

Dated: October 28, 2013.

**Leslie Kux,**

*Assistant Commissioner for Policy.*

[FR Doc. 2013–26056 Filed 10–31–13; 8:45 am]

**BILLING CODE 4160–01–P**

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## DEPARTMENT OF THE INTERIOR

## Bureau of Indian Affairs

## 25 CFR Part 226

**[BIA–2013–0003; 134/A0A511010/AAK1001000]**

**RIN 1076–AF17**

## Leasing of Osage Reservation Lands for Oil and Gas Mining

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Proposed rule; Reopening of comment period.

**SUMMARY:** In August, the Bureau of Indian Affairs (BIA) published a proposed rule in the **Federal Register** to revise regulations addressing oil and gas mining on reservation land of the Osage Nation. The public comment period for that rule closed on October 28, 2013. This notice reopens the comment period until November 18, 2013.

**DATES:** Comments on the proposed rule published August 28, 2013 (78 FR 53083) must be received by November 18, 2013.

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

—Federal rulemaking portal: The rule is listed under the agency name ''Bureau of Indian Affairs'' and has been assigned Docket ID ''BIA–2013–0003'' at *http://www.regulations.gov.*

—*Email: osageregneg@bia.gov.* Include the number 1076–AF17 in the subject line of the message.

—*Mail or hand-delivery:* Mr. Eddie Streater, Designated Federal Officer, Bureau of Indian Affairs, P.O. Box 8002, Muscogee, OK 74402. Include the number 1076–AF17 on the outer envelope.

We cannot ensure that comments received after the close of the comment period (see **DATES**) will be included in the docket for this rulemaking and considered. Comments sent to an address other than those listed above will not be included in the docket for this rulemaking.

Comments on the information collections contained in this proposed regulation are separate from those on the substance of the rule. Send comments on the information collection burden to OMB by facsimile to (202) 395–5806 or email to the OMB Desk Officer for the Department of the Interior at *OIRA_submission@omb.eop.gov.* Please send a copy of your comments to the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

**FOR FURTHER INFORMATION CONTACT:** Mr. Eddie Streater, Designated Federal Officer, Bureau of Indian Affairs, P.O. Box 8002, Muscogee, OK 74402; telephone: (918) 781–4608; fax: (918) 718–4604; or email: *osageregneg@bia.gov.* Additional information can be found at: *http://www.bia.gov/osageregneg.*

**SUPPLEMENTARY INFORMATION:** On August 28, 2013, BIA published a proposed rule revising 25 CFR 226 (78 FR 53083). The proposed rule is the result of a negotiated rulemaking and would update the leasing procedures and rental, production, and royalties requirements for oil and gas on Osage Mineral lands. The comment period for the proposed rule closed October 28, 2013. With this notice, BIA is reopening the comment period and establishing a new comment deadline of November 18, 2013.

BIA will also consider any comments that it received between the close of the original comment period on October 28, 2013, and the reopening of the comment period. If you submitted comments during this period, there is no need to resubmit them.

Dated: October 25, 2013.

**Kevin K. Washburn,**

*Assistant Secretary—Indian Affairs.*

[FR Doc. 2013–25848 Filed 10–31–13; 8:45 am]

**BILLING CODE 4310–02–P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA–R05–OAR–2012–0567; FRL–9902–36—Region 5]**

## Approval and Promulgation of Air Quality Implementation Plans; Indiana; Indiana $PM_{2.5}$ NSR

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve revisions to Indiana's state implementation plan as requested by the Indiana Department of Environmental Management (IDEM) to EPA on July 12, 2012, and December 12, 2012. The revisions to Indiana's state implementation plan (SIP) implement certain EPA regulations for particulate matter smaller than 2.5 micrometers ($PM_{2.5}$) by establishing definitions related to $PM_{2.5}$, defining $PM_{2.5}$ increment levels, and setting $PM_{2.5}$ class 1 variances. The revisions also incorporate definitions and regulations that recognize nitrogen oxides ($NO_X$) as an ozone precursor.

**DATES:** Comments must be received on or before December 2, 2013.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R05–OAR–2012–0567, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. Email: *damico.genevieve@epa.gov.*
3. Fax: (312) 385–5501.
4. *Mail:* Genevieve Damico, Chief, Air Permits Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. *Hand Delivery:* Genevieve Damico, Chief, Air Permits Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

*Instructions:* Direct your comments to Docket ID No. EPA–R05–OAR–2012–0567. 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 EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I of the **SUPPLEMENTARY INFORMATION** section of this document.

*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 Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Michael Langman, Environmental Scientist, at (312) 886–6867 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Michael Langman, Environmental Scientist, Air Permits Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6867, *langman.michael@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

I. What should I consider as I prepare my comments for EPA?
II. What is the background information for this action?
A. $PM_{2.5}$-Related Actions
B. Ozone-Related Actions
C. Indiana's Actions
III. What are the revisions that the State submitted for approval?
A. Rule 326 IAC 2–2–1, Definitions
B. Rule 326 IAC 2–2–4, Air Quality Analysis; Requirements
C. Rule 326 IAC 2–2–6, Increment Consumption; Requirements
D. Rule 326 IAC 2–2–14, Sources Impacting Federal Class I Areas; Additional Requirements
E. Rule 326 IAC 2–3–1, Definitions
F. Rule 326 IAC 5–1–5, Violations
IV. What action is EPA taking?
V. Statutory and Executive Order Reviews

### I. What should I consider as I prepare my comments for EPA?

When submitting comments, remember to:

1. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
2. Follow directions—EPA may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
4. Describe any assumptions and provide any technical information and/or data that you used.
5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
6. Provide specific examples to illustrate your concerns, and suggest alternatives.
7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
8. Make sure to submit your comments by the comment period deadline identified.

### II. What is the background information for this action?

IDEM has requested EPA's approval of several revisions to Indiana's SIP. These revisions were made to comply with regulations enacted to address the $PM_{2.5}$ national ambient air quality standards (NAAQS) and also to include $NO_X$ as a precursor to ozone. These revisions implement the new source review (NSR) and prevention of significant deterioration (PSD) program, as required by EPA's regulations.

*A. $PM_{2.5}$-Related Actions*

On April 25, 2007, EPA published (72 FR 20586) as a final rule in the **Federal Register** the ''Clean Air Fine Particle Implementation Rule''. This action provides rules and guidance for the Clean Air Act requirements for SIPs to implement the 1997 fine particle NAAQS. As part of this rulemaking, EPA promulgated 40 CFR part 51, subpart Z ''Provisions for Implementation of $PM_{2.5}$ National Ambient Air Quality Standards''. 40 CFR part 51, subpart Z outlines the requirements that a state SIP must meet to implement and comply with the $PM_{2.5}$ NAAQS. The final rule became effective on May 29, 2007.

On May 16, 2008, EPA published (73 FR 28321) as a final rule in the **Federal Register** the ''Implementation of the New Source Review (NSR) Program for Particulate Matter Less than 2.5 Micrometers ($PM_{2.5}$)''. These regulations establish the $PM_{2.5}$ NSR program. Among the finalized elements of the $PM_{2.5}$ NSR program are provisions establishing the $PM_{2.5}$ major source threshold, significant emissions rate, and applicability of NSR to $PM_{2.5}$ precursors. This final rule became effective on July 15, 2008.

*B. Ozone-Related Actions*

On November 29, 2005, EPA published (70 FR 71612) in the **Federal Register** the ''Final Rule to Implement the 8-Hour Ozone National Ambient Air Quality Standard—Phase 2''. Part of this rule established, among other requirements, $NO_X$ as a precursor to ozone. The final rule became effective on January 30, 2006.

*C. Indiana's Actions*

In response to EPA's actions regarding $PM_{2.5}$ and ozone, Indiana began the process to revise its state environmental rules to comply with the new regulations. During the rulemaking process, Indiana promulgated ''emergency rules'' designed to implement the regulations required by EPA's $PM_{2.5}$- and ozone-related actions. These emergency rules mirrored in substance the regulations Indiana intended to adopt. On June 11, 2012, Indiana adopted regulations implementing the required $PM_{2.5}$ and $NO_X$ ozone precursor regulations. The revisions to Indiana's environmental regulations became effective on July 11, 2012.

On July 12, 2012, IDEM sent a letter to EPA requesting EPA's approval of parts of the revisions made to Indiana's SIP. These changes define ''direct $PM_{2.5}$,'' addresses precursors to ozone and $PM_{2.5}$, and revises existing definitions within Indiana's SIP to reflect these changes. In the same letter, Indiana requested EPA's approval to revisions made to its title V operating permit program.

On December 12, 2012, IDEM submitted a second letter to EPA requesting approval of additional revisions to Indiana's SIP beyond those requested on July 12, 2012. The requested revisions modify provisions related to $PM_{2.5}$ class I variances, increment consumption, and baseline dates.

Indiana also made other revisions to its state environmental regulations such as adding language intended to make some regulations clearer while maintaining their current meaning. Since IDEM did not submit these revisions to EPA for approval into the SIP, EPA will not be taking action on them.

## III. What are the revisions that the state submitted for approval?

The revisions IDEM submitted for EPA's approval implement the $PM_{2.5}$ NAAQS, $PM_{2.5}$ NSR program and regulations related to $NO_X$ as a precursor to ozone. The submittal includes a request to approve revisions made to Indiana's state regulations at 326 Indiana Administrative Code (IAC) 326 IAC 2–2–1, 326 IAC 2–2–4, 326 IAC 2–2–6, 326 IAC 2–2–14, 326 IAC 2–3–1 and 326 IAC 5–1–5.

As part of this submittal, Indiana also requested revisions to 326 IAC 2–1.1–3 establishing exemptions that may apply to new sources, modifications to existing sources, and revisions of existing operating permits. However, these revisions are for regulations EPA had not previously approved into Indiana's SIP. Since these regulations were not previously approved into the SIP and are not being proposed as a new addition to the SIP, EPA will not be taking action on 326 IAC 2–1.1–3(d)(2)(A), 2–1.1–3(e)(1)(A), and 2–1.1–3(h)(2)(B)(xi)at this time.

Indiana also requested EPA to approve changes to Indiana's title V program found at 326 IAC 2–7. However, revisions to the title V program should be included as part of a separate title V program submission and not part of a SIP approval. For this reason, EPA will not be taking action on revisions to 326 IAC 2–7–1(21)(E)(vi) and 2–7–1(42)(C)(ii)(FF) in this proposal.

A description and analysis of the SIP revisions for approval follows.

*A. Rule 326 IAC 2–2–1, Definitions*

Indiana has revised several definitions at 326 IAC 2–2–1. The revisions are summarized in the following paragraphs.

The definition of ''major source baseline date'' at 326 IAC 2–2–1(ee)(3) adds October 20, 2010, as the major source baseline date for $PM_{2.5}$. This is consistent with 40 CFR 51.166(b)(14)(i)(c).

The definition of ''baseline area'' at 326 IAC 2–2–1(f)(1) was revised to explicitly identify pollutant air quality impacts that would define a baseline area where a minor source baseline date is already established. This revision is consistent with 40 CFR 51.166(b)(15)(i).

Indiana's revision of ''minor source baseline date'' at 326 IAC 2–2–1(gg)(1)(c) establishes October 20, 2011, as the trigger date for $PM_{2.5}$. This is consistent with 40 CFR 51.166(b)(14)(ii)(c).

The previously listed revised definitions are consistent with definitions found at 40 CFR 51.166(b). EPA finds the revisions to 326 IAC 2–2–1 approvable.

*B. Rule 326 IAC 2–2–4, Air Quality Analysis; Requirements*

Indiana revised 326 IAC 2–2–4(b)(2)(A)(vi) requiring ozone ambient air quality data to be provided if the net increase of $NO_X$ is more than 100 tons per year. Because this revision is consistent with 40 CFR 51.166(i)(5)(i)(f), EPA approved it on October 29, 2012 (77 FR 65478). However, this revision was incorrectly cited as 326 IAC 2–2–4(b)(2)(vi). EPA is correcting the citation with this action.

Indiana also revised 326 IAC 2–2–4(c)(4) by allowing an owner or operator of a proposed major stationary source or major modification of volatile organic compounds (VOC) or $NO_X$ who satisfies all conditions of 40 CFR part 51, appendix S, section IV, to provide post-approval monitoring data for ozone in lieu of preconstruction data. This revision differs from the regulation found at 40 CFR 51.166(m)(1)(v), which allows a SIP to authorize the submission of post-approval monitoring data for ozone in lieu of providing preconstruction data for VOC but not $NO_X$ . However, $NO_X$ and VOC are both considered ozone precursors under PSD regulations.[1] 326 IAC 2–2–4(c)(4), as revised, allows the submission of both VOC and $NO_X$ post-approval monitoring

[1] For example, in the preamble to ''*Final Rule To Implement the 8-Hour Ozone National Ambient Air Quality Standard-Phase 2*'' (70 FR 71612), EPA includes $NO_X$ as an ozone precursor, citing its role in ozone formation and transport.

data only when evaluating their impact as ozone precursors. This revision does not create an exclusion for $NO_X$ with regard to preconstruction monitoring for other applicable NAAQS, such as the $NO_2$ NAAQS or the $PM_{2.5}$ NAAQS. Because the option to provide $NO_X$ post-approval data in lieu of preconstruction monitoring data is narrowly restricted to its role as an ozone precursor, EPA finds this revision to be approvable.

*C. Rule 326 IAC 2–2–6, Increment Consumption; Requirements*

Indiana has revised 326 IAC 2–2–6(b) by adding allowable $PM_{2.5}$ increments as listed in 40 CFR 51.166(c)(1). Other revisions to 326 IAC 2–2–6(b) which do not change the overall meaning of the regulation include changing the word ''such'' to ''the'' and abbreviating ''particulate matter'' as ''PM.'' EPA finds this revision to be approvable.

*D. Rule 326 IAC 2–2–14, Sources Impacting Federal Class I Areas; Additional Requirements*

Indiana revised 326 IAC 2–2–14(e) by adding class I variances for $PM_{2.5}$. This revision is consistent with 40 CFR 51.166(p)(4). EPA finds this revision to be approvable.

*E. Rule 326 IAC 2–3–1, Definitions*

The definition of ''regulated NSR pollutant'' at 326 IAC 2–3–1(mm)(3) identifies ozone and $PM_{2.5}$ precursors in nonattainment areas. This change is consistent with 40 CFR 51.165(a)(1)(xxxvii). EPA finds this revision to be approvable.

The definition of ''significant'' at 326 IAC 2–3–1(pp) has also been revised by adding the significant emission rate for $PM_{2.5}$ and by changing the phrase ''oxides of nitrogen'' to ''nitrogen oxides.'' This change is consistent with 40 CFR 51.165(a)(1)(x). EPA finds this revision to be approvable.

*F. 326 IAC 5–1–5, Violations*

326 IAC 5–1–5(b)(1)(E) requires owners and operators to submit, as part of the petition requesting alternate opacity limits, applicable particulate matter limits. Under the currently approved SIP, the only applicable particulate matter limits are those associated with PM and $PM_{10}$, but not $PM_{2.5}$. Indiana has revised 326 IAC 5–1–5(b)(1)(E) to require owners and operators of sources and facilities seeking alternate opacity limits to submit PM, $PM_{10}$, or $PM_{2.5}$ limits. EPA finds this revision approvable because the revised SIP provision is more stringent since it now requires $PM_{2.5}$ limits to be submitted with petitions requesting alternate opacity limits.

## IV. What action is EPA taking?

EPA is proposing to approve revisions to Indiana's SIP that implements a portion of the $PM_{2.5}$ requirements and also incorporates $NO_X$ as an ozone precursor. These revisions were made to meet EPA's requirements for Indiana's PSD and NSR program and are consistent with Federal regulations. Specifically, EPA is proposing to approve the following:

(i) 326 IAC 2–2–1(ee)(3);
(ii) 326 IAC 2–2–1(f)(1);
(iii) 326 IAC 2–2–1(gg)(1)(c);
(iv) 326 IAC 2–2–4(b)(2)(A)(vi);
(v) 326 IAC 2–2–4(c)(4);
(vi) 326 IAC 2–2–6(b);
(vii) 326 IAC 2–2–14(e);
(viii) 326 IAC 2–3–1(mm)(3);
(ix) 326 IAC 2–3–1(pp); and
(x) 326 IAC 5–1–5(b)(1)(E).

EPA is taking no action with respect to 326 IAC 2–1.1–3(d)(2)(A), 326 IAC 2–1.1–3(e)(1)(A), and 326 IAC 2–1.1–3(h)(2)(B)(xi) because Indiana requested EPA to take action on revisions made to the state's regulations that were not previously approved into Indiana's SIP. If Indiana requests in the future that EPA take action with respect to these regulations as part of a separate SIP submission, EPA will do so at that time.

EPA is taking no action with respect to the revisions made to Indiana's title V program at 326 IAC 2–7–1(21)(E)(vi) and 326 IAC 2–7–1(42)(C)(ii)(FF) because the title V program is approved as a program separate from Indiana's SIP. EPA will take action on the revisions to Indiana's title V program as part of a title V program submission.

## V. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

## List of Subjects in 40 CFR Part 52

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

Dated: October 21, 2013.

**Susan Hedman,**

*Regional Administrator, Region 5.*

[FR Doc. 2013–26267 Filed 10–31–13; 8:45 am]

BILLING CODE 6560–50–P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA–R03–OAR–2013–0675; FRL–9902–38—Region 3]**

## Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Infrastructure Requirements for the 2010 Nitrogen Dioxide National Ambient Air Quality Standards

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a State Implementation Plan (SIP) submittal from the State of West Virginia pursuant to the Clean Air Act (CAA). Whenever new or revised national ambient air quality standards (NAAQS) are promulgated, the CAA requires states to submit a plan for the implementation, maintenance, and enforcement of such NAAQS. The plan is required to address basic program elements, including, but not limited to, regulatory structure, monitoring, modeling, legal authority, and adequate resources necessary to assure attainment and maintenance of the standards. These elements are referred to as infrastructure requirements. West Virginia has made a submittal addressing the infrastructure requirements for the 2010 nitrogen dioxide ($NO_2$) NAAQS.

**DATES:** Written comments must be received on or before December 2, 2013.

**ADDRESSES:** Submit your comments, identified by Docket ID EPA–R03–OAR–2013–0675 by one of the following methods:

A. *www.regulations.gov*. Follow the on-line instructions for submitting comments.

B. *Email: fernandez.cristina@epa.gov.*

C. *Mail:* EPA–R03–OAR–2013–0675, Cristina Fernandez, Associate Director, Office of Air Program Planning, Air Protection Division, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. 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–R03–OAR–2013–0675. 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 EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the West Virginia Department of Environmental Protection, Division of Air Quality, 601 57th Street SE., Charleston, West Virginia 25304.

**FOR FURTHER INFORMATION CONTACT:** Ellen Schmitt, (215) 814–5787, or by email at *schmitt.ellen@epa.gov.*

**SUPPLEMENTARY INFORMATION:** On December 13, 2012, the State of West Virginia through the West Virginia Department of Environmental Protection (WVDEP) submitted a revision to its SIP to satisfy the requirements of section 110(a)(2) of the CAA for the 2010 $NO_2$ NAAQS.

### I. Background

In 1971, EPA promulgated a $NO_2$ primary and secondary standard of 53 parts per billion (ppb), averaged annually. On January 22, 2010, EPA established an additional primary standard for $NO_2$ at 100 ppb, averaged over one hour. Pursuant to section 110(a)(1) of the CAA, states are required to submit SIPs meeting the applicable requirements of section 110(a)(2) within three years after promulgation of a new or revised NAAQS or within such shorter period as EPA may prescribe. Section 110(a)(2) lists specific elements that states must meet for ''infrastructure'' SIP requirements related to a newly established or revised NAAQS. These requirements include basic SIP elements such as requirements for monitoring, basic program requirements and legal authority that are designed to assure attainment and maintenance of the NAAQS.

Section 110(a) imposes the obligation upon states to make a SIP submission to EPA for a new or revised NAAQS, but the contents of that submission may vary depending upon the facts and circumstances. In particular, the data and analytical tools available at the time the state develops and submits the SIP for a new or revised NAAQS affect the content of the submission. The content of such SIP submissions may also vary depending upon what provisions the state's existing SIP already contains.

### II. Summary of SIP Revision

On December 13, 2012, the WVDEP provided a submittal to satisfy the requirements of section 110(a)(2) of the CAA for the 2010 $NO_2$ NAAQS. This submittal addressed the following infrastructure elements or portions thereof, which EPA is proposing to approve: Sections 110(a)(2)(A), (B), (C), (D), (E), (F), (G), (H), (J), (K), (L), and (M). A detailed summary of EPA's review and rationale for approving West Virginia's submittal may be found in the Technical Support Document (TSD) for this proposed rulemaking action, which is available online at *www.regulations.gov,* Docket number EPA–R03–OAR–2013–0675.

### III. Proposed Action

EPA is proposing to approve the following elements or portions thereof, of West Virginia's December 13, 2012 SIP revision: (A), (B), (C), (D), (E), (F), (G), (H), (J), (K), (L), and (M). West Virginia's SIP revision provides the basic program elements specified in section 110(a)(2) necessary to implement, maintain, and enforce the 2010 $NO_2$ NAAQS. This action does not

include any proposed action on section 110(a)(2)(I) of the CAA which pertains to the nonattainment requirements of part D, Title I of the CAA, because this element is not required to be submitted by the 3-year submission deadline of section 110(a)(1), and will be addressed in a separate process, if applicable. This action also does not include proposed action on section 110(a)(2)(C), (D)(i)(II), and (J) of the CAA as they relate to West Virginia's required permit program for the prevention of significant deterioration (PSD), as required by part C of Title I of the CAA. EPA will take separate action on these elements.[1] Additionally, EPA will take later separate action on CAA section 110(a)(2)(E)(ii) for the 2010 $NO_2$ NAAQS as it relates to CAA section 128, ''State Boards.'' EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

## IV. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule, which addresses West Virginia's infrastructure requirements in section 110(a)(2) of the CAA for the 2010 $NO_2$ NAAQS or portions thereof, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

## List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Recordkeeping and reporting.

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

Dated: September 26, 2013.

**W.C. Early,**

*Acting Regional Administrator, Region III.*

[FR Doc. 2013–26212 Filed 10–31–13; 8:45 am]

**BILLING CODE 6560–50–P**

[1] EPA previously approved West Virginia's PSD permit program with the limited exception of West Virginia's definition of ''regulated new source review (NSR) pollutant'' which received a narrow disapproval as the definition did not include condensable emissions of particulate matter. *See* (77 FR 63736, October 17, 2012) and (78 FR 27062, May 9, 2013). Because the grounds for disapproval were narrow and extended only to the lack of condensables within the definition of ''regulated NSR pollutant,'' the narrow disapproval does not alter EPA's October 17, 2012 approval of the remaining portions of West Virginia's August 2011 SIP submittal for the State's PSD program. EPA anticipates that West Virginia will make a submission rectifying the deficiency regarding condensables. Further, EPA anticipates acting on West Virginia's submission on this definition within the two year time frame prior to EPA's Federal implementation plan obligation on this very narrow issue.

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 90

**[PS Docket No. 13–229; RM–11635; FCC 13–121]**

### Vehicular Repeaters

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** In this *Order and Notice of Proposed Rulemaking,* the Commission proposes an amendment to the Commission's rules to allow the licensing and operation of vehicular repeater systems and other mobile repeaters by public safety licensees on certain frequencies in the VHF band.

**DATES:** Submit comments on or before December 31, 2013. Submit reply comments January 30, 2014.

**ADDRESSES:** You may submit comments, identified by PS Docket No. 13–229; RM–11635, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Federal Communications Commission's Web site: http://fjallfoss.fcc.gov/ecfs2/.* Follow the instructions for submitting comments.
- *Mail:* U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington, DC 20554. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- *Hand or Messenger Delivery:* 445 12th St. SW., Room TW–A325, Washington, DC 20554.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

For detailed instructions for submitting comments, additional information on the rulemaking process, and where to find materials available for inspection, see the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Thomas Eng, Policy and Licensing Division, Public Safety and Homeland Security Bureau, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, at (202) 418–0019, TTY (202) 418–7233, or via email at *Thomas.Eng@fcc.gov.*

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Notice of*

*Proposed Rulemaking* in PS Docket No. 13–229; RM–11635; adopted and released September 16, 2013. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., in person at 445 12th Street SW., Room CY–B402, Washington, DC 20554, via telephone at (202) 488–5300, via facsimile at (202) 488–5563, or via email at *FCC@BCPIWEB.com.* Alternative formats (computer diskette, large print, audio cassette, and Braille) are available to persons with disabilities or by sending an email to *FCC504@fcc.gov* or calling the Consumer and Governmental Affairs Bureau at (202) 418–0530, TTY (202) 418–0432. This document is also available on the Commission's Web site at *http://www.fcc.gov.*

**Comments**

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments. Comments may be filed using: (1) The Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (May 1, 1998).

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: *http://fjallfoss.fcc.gov/ecfs2/* or the Federal eRulemaking Portal: *http://www.regulations.gov.*
- *Paper Filers:* Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.
- Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW., Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington DC 20554.

**Introduction**

In this *Order and Notice of Proposed Rulemaking,* which we adopt in response to an Amended Petition for Rulemaking filed by Pyramid Communications, Inc. (Pyramid), we solicit comment on whether to amend Part 90 of the Commission's rules to allow the licensing and operation of vehicular repeater systems (VRS) and other mobile repeaters by public safety licensees on certain frequencies in the VHF band. Mobile repeaters are beneficial for public safety because they can provide first responders with enhanced in-building radio coverage at emergency sites, thereby enabling first responders to remain in radio contact when they are inside a building. For example, a mobile repeater enables firefighters to communicate on hand-held radios with their command center when they enter a building, encounter an in-building fire, and need to call for backup assistance on the spot. Without a repeater to relay the communications, the firefighters inside the building might be cut off from communicating with the command center.

Given the importance of mobile repeaters to public safety, the purpose of this proceeding is to explore whether there is a need to make additional spectrum available to support mobile repeater capability. For the reasons discussed below, we grant the Amended Petition in part and initiate a rulemaking that proposes to allow VRS operations on six remote control and telemetry channels at 173 MHz, subject to coordination procedures. However, we deny the portion of the Amended Petition that seeks to initiate a rulemaking to permit VRS operations on nine Federal and forest firefighting channels in the 170–172 MHz band.

**Background**

Portions of the VHF band are used by Private Land Mobile Radio Service licensees, including public safety licensees, predominantly for voice operations. The Commission's rules designate 488 frequencies, totaling approximately 3.6 megahertz of spectrum in the VHF band, for public safety use. Licensees may operate mobile repeater stations, including vehicular repeaters, on certain VHF mobile frequencies under § 90.247 of the Commission's rules.

On June 27, 2011, Pyramid, a manufacturer of wireless data and voice equipment, filed a Petition for Rulemaking requesting that the Commission amend its rules to expand the number of VHF band frequencies available for VRS use by public safety licensees. On August 16, 2011, Pyramid filed the Amended Petition to provide clarification and correct typographical errors. We treat the Amended Petition as superseding the Initial Petition, but we also consider four additional VHF frequencies that were identified in the Initial Petition but not included in the Amended Petition.

In the Amended Petition, Pyramid contends that VRS units are essential to extend coverage of radio systems to the inside of buildings so that first responders going into a building can maintain communications. According to Pyramid, current filter technology requires VRS units to operate on frequencies that are separated by 2–5 megahertz from the system's main licensed frequencies. Pyramid asserts that there are insufficient existing VHF frequencies to support VRS that are sufficiently distant from the 150–159 MHz public safety frequencies and that are not already saturated with other existing base/mobile operations. Pyramid therefore proposes that the Commission designate additional VHF spectrum for VRS use.

Pyramid identifies two specific VHF allocations that it contends would be suitable for communication between portable radios and VRS units. First, Pyramid identifies nine frequencies in the 170–172 MHz band that are allocated for Federal use on a primary basis but are also available for assignment to non-Federal licensees engaged in forest firefighting and forest conservation activities. Pyramid proposes to lift this limitation so that these channels could be used by VRS units for purposes other than fighting forest fires, *e.g.,* for fighting in-building fires. Pyramid also states that to address potential concerns that VRS use by police might cause interference to firefighters, Pyramid ''would not oppose'' limiting VRS use of these frequencies to firefighters.

Second, Pyramid identifies six frequencies in the 173 MHz band currently designated for fixed remote control and telemetry operations. These six frequencies are shared between the Public Safety and Industrial/Business (I/B) Pools, have a 6 kilohertz

bandwidth limitation, and do not permit voice operation due to the telemetry designation. Pyramid states that the Land Mobile Communications Council (LMCC) ''has developed frequency coordination standards by which radio systems can be coordinated on adjacent frequencies where bandwidths overlap.'' Pyramid contends that utilization of these standards will ensure that VRS use of the six frequencies identified in the Amended Petition will not cause adjacent channel interference. On this basis, Pyramid proposes that the Commission lift the restriction on voice operation and allow low power VRS operation on the six 173 MHz frequencies.

On October 14, 2011, the Public Safety and Homeland Security Bureau (Bureau) released a public notice seeking comment on the Amended Petition. The Bureau sought comment on Pyramid's proposals regarding the 170–172 MHz forest firefighting frequencies and the 173 MHz telemetry frequencies. The Bureau asked whether the Commission should remove the limitation in § 90.20(d)(33), which imposes a bandwidth limit of 6 kilohertz on the six telemetry channels, since voice communications typically occupy a bandwidth of 11.25 kilohertz. The Bureau also noted that the Initial Petition, but not the Amended Petition, had proposed to allow VRS use of four additional frequencies immediately adjacent to the six telemetry channels. Accordingly, the Bureau asked whether the Commission should consider all ten 173 MHz frequencies for VRS operation. Finally, the Bureau sought comment on ''the potential costs and benefits of Pyramid's proposal, including: (1) How and in what ways the remote control and telemetry channels are used today; (2) the compatibility of the proposed VRS voice operations with incumbent remote control and telemetry operations; and (3) adjacent channel interference as a result of modifying or removing bandwidth limitations on frequencies in the 173 MHz band.'' The comment period closed on November 18, 2011.

**Comments**

The Commission received 31 responsive comments and reply comments, with supporting commenters outnumbering opposing commenters. Full supporters include various public safety agencies, equipment dealers, and individuals. Two certified frequency coordinators offer more reserved support for VRS use of the 173 MHz channels. Four certified frequency coordinators and a county water management agency oppose the petition.

*Comments Supporting Pyramid Proposals*

Nineteen commenters support all of Pyramid's proposals. Some of these commenters argue that in-building portable radio coverage can be challenging or non-existent due to the use of modern construction materials that attenuate radio signals, and that vehicular repeaters are an important link between portable and base communications. Several parties support this proceeding for the safety of first responders. Mark Schaff (Schaff) argues that the VHF plan makes it difficult to achieve 3–5 megahertz separation between the mobile transmit frequencies and the vehicle repeater frequency. Therefore, Schaff states that making frequencies at 170 MHz available for VRS would make it easier to set up in-band repeaters. Wisconsin State Patrol (Wisconsin) urges the Commission to consider all ten frequencies at 173 MHz (including the four identified in the Initial Petition), as well as the 170–172 MHz frequencies, for VRS operation.

Other commenters support specific elements of Pyramid's proposal but take no position on others. The Commonwealth of Virginia, Department of State Police (Commonwealth) supports VRS use of the six 173 MHz telemetry frequencies and also supports allowing VRS use of 170–172 MHz frequencies, but for forestry purposes only. The Association of Public-Safety Communications Officials-International, Inc. (APCO), a certified frequency coordinator, states that it ''is not prepared to take a position on all of Pyramid's specific recommendations at this time'' but that it ''strongly support[s] the initiation of a rulemaking proceeding to explore ways to improve VRS capability.'' The Enterprise Wireless Alliance (EWA), another certified coordinator, takes no position on VRS use of 170–172 MHz frequencies, but supports consideration of designating some 173 MHz frequencies for VRS voice operations ''subject, of course, to appropriate frequency coordination procedures.'' EWA cautions that VRS use of these frequencies must be carefully coordinated to ensure continued availability of the telemetry channels for use by EWA and Utilities Telecommunications Council (UTC) members, ''who have made productive use of these frequencies to support a variety of essential business enterprise and critical infrastructure non-voice applications.'' EWA opposes rule changes ''that might compromise these operations,'' but posits that ''[g]iven the highly localized nature of VRS usage, [the telemetry] frequencies should be able to be reused in adjacent communities without interference.'' APCO, Pyramid, and Wisconsin also state that frequency coordination can minimize potential VRS interference to remote control and telemetry operations.

*Comments Opposing VRS on 170–172 MHz*

Two other certified frequency coordinators, the Forestry Conservation Communications Association (FCCA) and the International Municipal Signal Association/International Association of Fire Chiefs (IMSA/IAFC), oppose VRS use of the 170–172 MHz frequencies. While these parties do not oppose the concept of VRS, they assert that because the 170–172 MHz band frequencies are assigned on a primary basis to the federal government, the Commission lacks authority to allow VRS use absent concurrence from federal users and/or the National Telecommunications and Information Administration (NTIA). IMSA/IAFC also express concern that VRS use could interfere with use of these channels for forest firefighting operations. FCCA notes that the locations of forest fires cannot be predicted, so ''[o]nce a fire starts, it is critical to be able to move into an area quickly and establish communications.'' IMSA/IAFC state that ''[t]here is often no clear distinction between forested and non-forested areas, and buildings, shopping malls and arenas are increasingly located at the perimeters of forested areas.'' Both commenters also cite as precedent a 2003 determination by the Wireless Telecommunications Bureau that forest firefighting channels are not routinely available for low power police surveillance operations.

*Comments Opposing VRS on 173 MHz Telemetry Channels*

The Yuba County Water Agency, California (Yuba) and certified frequency coordinators UTC and the American Petroleum Institute (API) express concerns that VRS could interfere with incumbent telemetry operations in the 173 MHz band. UTC states that allowing voice operations on these frequencies ''would threaten interference to [telemetry] operations, thereby jeopardizing the underlying services that they support and the general public that relies on those services.'' UTC also contends that existing frequency coordination procedures will not mitigate the risk of interference because they are designed

to address interference between adjacent voice systems rather than interference between voice-based VRS and data-based telemetry/remote control operations. Yuba contends that ''[t]here is a high likelihood that police and fire use of [VRS] would interfere with the Agency telemetry system.'' API argues that ''Pyramid does not describe how its proposal will not result in the very interference to others that it seeks to avoid (both from and to Public Safety VRS operations) for itself.''

UTC and API also argue that Pyramid has failed to document the need for additional spectrum to support VRS. UTC asserts that there is ''very little if any technical justification in the petition for the relief that Pyramid seeks, and there is almost no discussion of possible alternatives and/or interference mitigation strategies.'' API argues that Pyramid has not demonstrated why VRS could not be accommodated on existing frequencies through improved filter technology or regional, state and local planning. API suggests that it is premature to conclude that the VHF band is saturated with existing base/mobile operations because narrowbanding could make additional VHF spectrum available after the January 1, 2013 deadline. API also contends that critical infrastructure industry entities have greater need than VRS for additional spectrum.

In reply, the Commonwealth argues that VRS use of telemetry frequencies ''to help fill a critical gap in public safety coverage for first responders'' should take priority over ''the risk of minor delays in utility monitoring.'' The Commonwealth also contends that the risk of VRS causing interference to utility telemetry is low because VRS use will be highly sporadic. Indeed, given that VRS units are intended for temporary use at indeterminate locations, the Commonwealth argues that VRS use should not be subject to frequency coordination.

**Order**

As evidenced by § 90.247 of the rules, the Commission has long recognized the public interest benefit of vehicular repeaters (mobile repeater stations), which provide in-building coverage and extended communications range for hand-held units used by police, fire, and rescue personnel in the field. As we noted above, mobile repeaters can improve the safety of first responders by enabling them to stay in radio contact with their command centers in difficult coverage environments where they might otherwise be cut off from communicating. We point out that licensees may operate mobile repeater stations on most frequencies in the VHF band without any rule change under § 90.247. The predominant use of mobile repeater stations is for land mobile voice operation, which is allowed on most VHF frequencies.

However, a rulemaking is necessary to consider allowing mobile repeater stations on the particular VHF frequencies that Pyramid identified because these frequencies have specific rules and limitations that render the frequencies incompatible with mobile repeater stations absent a rule change. For example, the six telemetry and remote control channels are non-voice by definition, and thus, our rules do not allow voice operation and therefore do not allow mobile repeater station operations on telemetry and remote control channels. Hence, Pyramid urges the Commission to ''remov[e] the thirty year old restriction on voice operation.'' The Federal forest firefighting channels have limitations on allocation and how the channels are used that are also incompatible with Pyramid's proposed mobile repeater stations use, absent rule changes.

In its Amended Petition, Pyramid states that public safety users in the VHF band have a particular need for an in-band VRS solution because there is virtually no allocation of public safety spectrum that can be used for VRS that provides the required spectral separation from the 150–159 MHz operating frequencies and that is not already saturated with existing base/mobile operations. The record persuades us that we should initiate a rulemaking proceeding to determine whether additional spectrum is needed to support VHF in-band mobile repeater stations. Accordingly, by adopting the accompanying *Notice of Proposed Rulemaking* we grant the portion of Pyramid's Amended Petition that seeks to initiate such a proceeding.

However, we deny the portion of Pyramid's Amended Petition that seeks to initiate a proceeding regarding the nine Federal and forest firefighting channels at 170–172 MHz. On April 3, 2013, NTIA filed a letter recommending that the Commission deny the Pyramid Petition in part with respect to these channels. NTIA noted that the U.S. Department of Agriculture and the U.S. Forest Service make extensive use of these channels. NTIA states that because the Forest Service supports critical public safety operations, NTIA needs to ensure an interference-free environment. NTIA opposes even secondary status for VRS users because VRS public safety services should not be placed at risk by creating conflicts with primary Federal safety operations, and neither group will want to face interference or other coordination conflicts during an operation. Based on NTIA's recommendation, we decline to include the nine Federal channels in our rulemaking proceeding.

We also decline to include in our rulemaking proceeding the four additional 173 MHz frequencies identified by Pyramid in the Initial Petition. Because Pyramid did not list these frequencies in the Amended Petition, it is not clear whether Pyramid intended to propose their inclusion, but even if it did so intend, we believe they are not suitable for VRS use. Two of the four frequencies (173.210 and 173.390 MHz) have a bandwidth limit of only 3 kilohertz, which is insufficient bandwidth for satisfactory voice operation based on today's available technology. We also agree with APCO that the four frequencies should not be considered for VRS use because the 6.25 kilohertz separation between the lower two and upper two frequencies ''results in insufficient separation between the two frequencies for voice use, and makes coordination difficult.''

**Notice of Proposed Rulemaking**

In this *Notice of Proposed Rulemaking,* we seek comment on rule amendments to provide for the expanded use of mobile repeaters for public safety. Although we do not seek to expand the authority for mobile repeaters under § 90.247, we propose to amend §§ 90.20 (limitations 32, 33, and 34) and 90.175 of our rules to enable mobile repeaters to operate on the telemetry channels discussed above. We also seek comment on whether frequency coordination methods could protect telemetry users from interference. Next, we seek comment on issues raised in the comments to the public notice, including wide area mobile repeater operations, bandwidth, and power. We also seek comment on the costs and burdens of rule changes, and on whether current mobile repeater filter technologies can support reduced frequency separation requirements. Finally, we explore the mobile repeater environment in other public safety bands besides VHF, and seek comment on Industrial/Business licensees' usage of mobile repeaters.

**Telemetry Channels**

We seek comment on whether to permit public safety mobile repeater station operations on the six remote control and telemetry channels at 173 MHz subject to coordination. The record suggests that there may be a need to make additional VHF channels available for VRS use beyond those that are

already available. We seek comment on whether this is the case. Are frequencies in the 150–159 MHz band not suitable for VRS use, as Pyramid contends, because of limited spectral separation and heavy use by existing base mobile operations? Are there are other alternatives that should be considered, as API and UTC suggest? For example, has implementation of the Commission's narrowbanding mandate freed up VHF spectrum that could be used for VRS? Should VRS spectral needs be given priority over other potential uses, such as critical infrastructure use?

To the extent that additional VHF spectrum may be needed for VRS use, we seek comment on the appropriateness of making the six 173 MHz remote control and telemetry channels available for this purpose. Do commenters agree with EWA that neighboring VRS users should be able to share use of the same frequency given the localized and limited time nature of such operations, and that such sharing should minimize the potential for harmful interference to incumbent telemetry users? We note that some telemetry data operations are used for safety-related purposes, such as monitoring and controlling water quality and volume for public health and flood control. Would frequency coordination be sufficient to mitigate the risk of interference between VRS and telemetry uses? Should we consider modifying the current VHF band coordination methodology, including the use of exclusion zones, to reduce instances of interference? Since mobile repeater stations are not fixed operations, we seek comment on whether a modified VHF coordination practice could accommodate mobile repeater stations. We also seek comment on alternative frequency coordination procedures that could accommodate such usage.

**Protection of Telemetry Users**

We seek comment about the typical configuration and usage of telemetry stations. Are telemetry systems generally point-to-point, point-to-multipoint, or a mix? What are typical duty cycles and data rates? What types of error correction and retransmit protocols do telemetry operators use? In the context of telemetry station configuration and usage, what is the best way to protect them from mobile repeater stations through coordination? For example, is it feasible to prohibit mobile repeater use inside the service area of a co-channel incumbent station (i.e., an exclusion zone)? We invite suggestions for other coordination procedures, depending on the characteristics of the incumbent telemetry station. Would an exclusion zone coordination methodology address UTC's concern about the lack of a frequency coordination standard for voice and data operations? Would a typical public safety mobile repeater station licensee be able to instruct its first responders to avoid using a co-channel frequency for mobile repeater stations in these exclusion zones with reasonable accuracy?

We seek comment on whether frequency coordinators could add special conditions to the mobile repeater applications, *e.g.,* by listing active, co-channel incumbent call signs and associated exclusion zones that demarcate where mobile repeater operations would be specifically prohibited from the authorization requested by the application. We seek comment on possible exceptions to such an approach, such as when the mobile repeater station user has obtained written concurrence from the incumbent licensee, or the VRS user and incumbent user are the same licensee. What should be the protocol if a mobile repeater station user becomes licensed on a vacant frequency, but a telemetry user is later licensed on that frequency in the mobile repeater station user's operating area? Should a mobile repeater be allowed to cease protecting the exclusion zone if the incumbent telemetry license were to expire, cancel, or terminate and absent the filing of a petition for reconsideration of the change in license status?

**Wide Area Mobile Repeater Operations**

If a wide area or statewide applicant cannot achieve complete mobile repeater coverage on one telemetry frequency due to a conflict with exclusion zones, could the applicant achieve greater coverage by applying for multiple telemetry frequencies, thereby avoiding interference in the prohibited exclusion zones? Would these measures address the Commonwealth's argument that frequency coordination is unnecessary in general and unworkable for statewide VRS use?

**Frequency Bandwidth**

Wisconsin supports the use of VRS on telemetry channels, stating that ''[a]djacent channel interference issues will be diminished with the imminent conversion of all operations to 11K or less operation.'' The six telemetry channels are interleaved with seven channels in the I/B Pool. The spacing between channels is 12.5 kilohertz. Prior to the narrowbanding deadline of January 1, 2013, the interstitial I/B channels had a 20 kilohertz bandwidth limit, while the six telemetry channels have a 6 kilohertz bandwidth limit to minimize mutual bandwidth overlap. However, now that the narrowbanding deadline has passed, the interstitial I/B channels have a bandwidth limit of 11.25 kilohertz, which would allow mobile repeater stations on the telemetry channels to use greater than 6 kilohertz bandwidth and up to 11.25 kilohertz bandwidth without mutual bandwidth overlap. Consequently, we propose to allow mobile repeater operations to use up to 11.25 kilohertz bandwidth on the six telemetry channels. We acknowledge that PLMR stations that meet the efficiency standard of one voice channel per 12.5 kilohertz bandwidth may still use up to 20 kilohertz authorized bandwidth, but that most radios operate at 11.25 kilohertz bandwidth or less.

We seek comment on what proportion of I/B users of the interstitial channels could be affected by bandwidth overlap because they operate at greater than 11.25 kilohertz bandwidth and choose to satisfy the narrowbanding requirement by meeting the efficiency standard. Can mobile repeater stations operate within the other technical limits of § 90.20(d)(33) of the Commission's rules, or should the Commission not apply these limits to mobile repeater stations on the six telemetry channels? We clarify that the provisions of § 90.247 would apply to VRS or mobile repeater operations on these telemetry channels or any other spectrum that supports such use. We do not perceive a conflict between the rules proposed herein and § 90.247 of the Commission's rules. We also seek comment on whether all operations on the six telemetry channels should remain secondary to adjacent channel land mobile operations now that the narrowband deadline has passed.

**Power**

The Commonwealth seeks a power limit increase on the telemetry channels for VRS if the channels are made available for VRS use. The current ERP limit for mobile stations is 2 watts; the Commonwealth seeks 5 watts for both VRS and portable radios. The Commonwealth contends public safety ''needs dedicated frequencies of equal transmitter power to that of a VHF portable, to create a balanced network.'' We seek comment on the Commonwealth's proposal, but only for mobile repeater operation on the six telemetry channels. We do not propose to increase the 2-watt power limit for the existing telemetry and remote control use.

**Costs and Burdens**

We also seek comment on the costs and burdens associated with allowing mobile repeater stations on the six telemetry channels. Would incumbent licensees experience any increased costs if we allow mobile repeater stations on the six telemetry channels? Approximately how many more staff-hours would frequency coordinators spend on a mobile repeater station coordination, relative to a non-mobile repeater station coordination in the VHF band, if we impose the coordination requirement that we discussed above? If there is a significant difference, can frequency coordinators estimate the effect on coordination fees? Does the supposed benefit that mobile repeater stations provide justify an increased coordination cost? We seek comment on any other costs that we have not considered.

**Filters and Other Technical Solutions**

We seek comment generally on whether improvements to mobile repeater equipment and filter design could reduce the frequency separation requirements for mobile repeaters. FCCA, UTC, and API argue that Pyramid's frequency spread argument does not establish that the frequencies proposed by Pyramid for VRS use are the only frequencies it could use, or that filter improvements could not reduce the separation requirement. UTC argues that ''[t]here is very little if any technical justification in the petition for the relief that Pyramid seeks, and there is almost no discussion of possible alternatives and/or interference mitigation strategies.'' FCCA states, ''perhaps other filter technologies, such as very small surface acoustic wave ('SAW') filters, could be adapted for vehicular repeater use.'' EWA ''urges the VRS vendor community to investigate technological advances that might expand spectrum options in the future.'' Accordingly, we seek comment on filter design in general to allow for smaller frequency separation. We also seek comment on the feasibility of adapting SAW filters, or other filter technology, for mobile repeater use. We particularly invite other manufacturers of vehicular and mobile repeaters to comment and provide information on frequency separation requirements for in-band repeaters and filters that can minimize the frequency separation. We also ask commenting parties to discuss the advantages and disadvantages of cross-band repeaters as an alternative to in-band repeaters.

**Other Public Safety Bands**

Next, we seek comment on whether there are other spectrum bands or frequencies that could be used for public safety mobile repeater operations. Are there other alternatives in the VHF band? What is the status of mobile repeaters in the 450–470 MHz, 700 MHz, and 800 MHz public safety bands? To what extent do public safety licensees in these bands experience challenges in locating suitable and available frequencies that can be used for mobile repeater stations? Bearing in mind that mobile repeater stations generally are allowed on any private land mobile radio service frequency that the Commission's rules do not designate for an incompatible purpose, what steps could the Commission take to facilitate mobile repeater use in 450–470 MHz, 700 MHz, and 800 MHz bands? Are there adequate frequencies in these bands where land mobile voice operations, and by extension mobile repeater stations, are already permitted, or should the Commission consider changing rules to allow land mobile voice operations and mobile repeater stations on certain frequencies that the rules currently render incompatible with such use? If so, which frequencies should the Commission consider?

**Industrial/Business Licensees**

While much of the discussion herein is focused on public safety users, we also seek comment on the I/B community's interest in using mobile repeater stations in the VHF band. What is the current state of I/B mobile repeater usage? Do I/B licensees need more VHF spectrum for mobile repeater stations that can be shared with existing applications, such as telemetry? Should the Commission include I/B eligibles in this rulemaking and consider amendments to § 90.35 that are analogous to the rule changes we propose supra to § 90.20, so that I/B users in addition to public safety users would be allowed to use the six telemetry channels for VRS?

**Procedural Matters**

*Ex Parte Presentations*

This matter shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with § 1.1206(b). In proceedings governed by § 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

*Regulatory Flexibility Analysis*

As required by the Regulatory Flexibility Act of 1980, see 5 U.S.C. 603, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the policies and rules addressed in this document. The IRFA is set forth in Appendix B of the *Order and Notice of Proposed Rulemaking.* Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments filed in response to this *Notice of Proposed Rulemaking* as set forth herein, and they should have a separate and distinct heading designating them as responses to the IRFA. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of the *Order and Notice of Proposed Rulemaking,* including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). See 5 U.S.C. 603(a).

*Paperwork Reduction Act Analysis*

This document contains proposed modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public. Law. 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law. 107–198, see 44 U.S.C. 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

*Congressional Review Act*

The Commission will send a copy of this *Order and Notice of Proposed Rulemaking* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act (CRA), *see* 5 U.S.C. 801(a)(1)(A).

**Ordering Clauses**

Accordingly, *it is ordered* that pursuant to sections 4(i) and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303, and § 1.407 of the Commission's rules, 47 CFR 1.407, this *Order and Notice of Proposed Rulemaking is adopted.*

*It is further ordered* that pursuant to sections 4(i) and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303, and §§ 1. 401(e) and 1.407 of the Commission's rules, 47 CFR 1.401(e) and 1.407, the petition for rulemaking filed by Pyramid Communications, Inc., on June 27, 2011, as amended on August 16, 2011, *is granted* to the extent described herein and *is otherwise denied.*

*It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this *Order and Notice of Proposed Rulemaking,* including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

*It is further ordered* that pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on this *Notice of Proposed Rulemaking* on or before December 31, 2013, and interested parties may file reply comments on or before January 30, 2014.

**List of Subjects in 47 CFR Part 90**

Communications equipment, Radio.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

**Proposed Rules**

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 90 as follows:

## PART 90—PRIVATE LAND MOBILE RADIO SERVICES

■ 1. The authority citation for part 90 continues to read as follows:

**Authority:** Sections 4(i), 11, 303(g), 303(r) and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 161, 303(g), 303(r) and 332(c)(7), and Title VI of the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. 112–96, 126 Stat. 156.

■ 2. Section 90.20 is amended by revising paragraphs (d)(32), (33), and (34) to read as follows:

### § 90.20 Public Safety Pool.

* * * * *

(d) * * *

(32) The maximum effective radiated power (ERP) may not exceed 20 watts for fixed stations, 2 watts for mobile stations, and 5 watts for mobile repeater stations and hand-carried transmitters that communicate directly with mobile repeater stations in the Public Safety Pool. The height of the antenna system may not exceed 15.24 meters (50 ft.) above ground. All such operation is on a secondary basis to adjacent channel land mobile operations.

(33) For FM transmitters, the sum of the highest modulating frequency in Hertz and the amount of the frequency deviation or swing in Hertz may not exceed 2800 Hz and the maximum deviation may not exceed 2.5 kHz. For AM transmitters, the highest modulation frequency may not exceed 2000 Hz. The carrier frequency must be maintained within .0005 percent of the center of the frequency band, and the authorized bandwidth may not exceed 6 kHz, except for mobile repeater stations and hand-carried transmitters that communicate directly with mobile repeater stations in the Public Safety Pool, in which case the authorized bandwidth may not exceed 11.25 kHz.

(34) This frequency is available on a shared basis with the Industrial/Business Pool for remote control and telemetry operations. In cases where § 90.20(d)(32) applies to this frequency, licensees who are eligible in the Public Safety Pool may also use this frequency for mobile repeater stations and hand-carried transmitters that communicate directly with mobile repeater stations subject to the frequency coordination requirements of § 90.175(b)(4). Mobile repeater stations shall not operate within the service areas of active co-channel incumbent remote control and telemetry stations as determined by the applicable frequency coordinator and listed in a special condition on the mobile repeater station operator's license. If any listed incumbent license on the special condition becomes expired, canceled, or terminated, then this requirement shall not apply to the associated service area beginning 30 days after the change in license status in the Commission's Universal Licensing System, absent the filing of a petition for reconsideration of the change in license status.

* * * * *

■ 3. Section 90.175 is amended by adding paragraph (b)(4) to read as follows:

### § 90.175 Frequency coordinator requirements.

* * * * *

(b) * * *

(4) For any application for public safety mobile repeater station operations on frequencies denoted by both §§ 90.20(d)(32) and 90.20(d)(34), the frequency coordinator responsible for the application must determine and disclose to the applicant the call signs and the service areas of all active co-channel incumbent remote control and telemetry stations inside the applicant's proposed area of operation by adding a special condition to the application, except when the applicant has obtained written concurrence from an affected incumbent licensee, or when the applicant and the incumbent licensee are the same entity.

* * * * *

[FR Doc. 2013–25587 Filed 10–31–13; 8:45 am]

BILLING CODE 6712–01–P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Chapter I

**[DA 13–2025; WC Docket No. 05–337; WC Docket No. 13–184; GN Docket No. 13–185; ET Docket Nos. 03–137 and 13–84]**

# Revised Filing Deadlines Following Resumption of Normal Commission Operations; 2014 Modification of Average Schedule Company Universal Service High-Cost Loop Support Formula; Modernizing the E-Rate Program for Schools and Libraries; Reassessment of Exposure to Radiofrequency Electromagnetic Fields Limits and Policies

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rulemaking; extension of filing deadlines.

**SUMMARY:** The Commission is further extending certain filing deadlines for rulemaking filings because the public did not have access to electronic docket and other online Commission resources during the suspension of operations due to the government-wide lapse in funding.

**DATES:**

- Comments or reply comments in rulemaking proceedings (except as otherwise specified) that were due between October 1 and October 6, 2013, will be due on October 22, 2013.
- Comments or reply comments in rulemaking proceedings (except as otherwise specified) that were due between October 7 and October 16, 2013 are due 16 calendar days after the original filing date.
- Comments or reply comments in rulemaking proceedings (except as otherwise specified) that were due to be filed between October 17 and November 4, 2013, are due November 4, 2013.
- Comments in WC Docket No. 05–337 are due by November 4, 2013; reply comments are due by November 19, 2013.
- Reply comments in WC Docket No. 13–184 are due November 8, 2013.
- Reply comments in GN Docket No. 13–185 are due October 28, 2013.
- Reply comments in ET Docket Nos. 03–137 and 13–84 are due November 18, 2013.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Lyle, Assistant General Counsel, 202–380–2348.

**SUPPLEMENTARY INFORMATION:** As a result of the recent government-wide lapse in funding, the Commission suspended normal operations from October 1, 2013 through October 16, 2013, for a total of 16 days. Among other things, the Commission's filing window, mail room, and all electronic filing systems, with the exception of the Network Outage Reporting System (NORS), were unavailable from October 1, 2013, until October 17, 2013. In addition, many Commission resources normally accessible through the Commission's Web site, including access to electronic dockets, were inaccessible for the same period.

On October 1, 2013, the Commission issued a public notice stating that ''any materials, with the exception of NORS filings, that otherwise would be required to be filed with the Commission (at its headquarters, Gettysburg, PA or U.S. Bank), during the suspension of operations or on the day of return to normal operations, will be due on the business day following the day of return to normal operations.'' Upon reopening on October 17, 2013, the Commission suspended all Commission filing deadlines that occurred during the shutdown or that will occur on or before October 21, other than NORS filing deadlines, until further notice. This Public Notice supersedes the October 1 and October 17 Public Notices.

Because parties did not have access to electronic dockets and other online Commission resources during the suspension of operations, we have determined to further extend the filing deadline for rulemaking filings, with the exception of certain specified filings, so as to provide filers with access to Commission resources for the period they would have had absent the suspension of Commission operations. Filings in rulemaking proceedings, with the exception of specified proceedings listed *infra,* that were due between October 1 and October 6 will be due on October 22, 2013. Filings, with the exception of specified proceedings listed *infra,* that were due between October 7 and October 16 will be due 16 days after the original filing date, an extension equivalent to the period of the Commission's closure. Thus, for example, a filing that would have been due on October 7, will be due on October 23, an extension of 16 days. To the extent the revised due dates for filings under this Public Notice fall on a weekend or other Commission holiday, they will be due on the next business day. Finally, filings in rulemaking proceedings, with the exception of specified proceedings listed *infra,* that would otherwise be required to be filed between October 17 and November 4 will be due for filing on November 4, 2013 (which is the first business day following a 16-day period after the Commission's October 17 reopening).

To the extent the due dates for filings to which reply or responsive pleadings are allowed are extended by this Public Notice, the due dates for the reply or responsive pleadings are extended by the same number of days. Thus, for example, if comments were originally due on October 30 and reply comments due ten days later, comments would now be due on November 4 and reply comments on November 14.

We have determined to further extend the filing deadline for the following proceedings as herein specified:

- *2014 Modification of Average Schedule Company Universal Service High-Cost Loop Support Formula.* In WC Docket No. 05–337, the comment dates set forth in DA 13–1870 are revised as follows: Comments are due by November 4, 2013, and reply comments are due by November 19, 2013.
- *Modernizing the E-Rate Program for Schools and Libraries,* WC Docket No. 13–184. The due date for filing reply comments as set forth in FCC 13–100 is revised to November 8, 2013.
- *Amendment of the Commission's Rules with Regard to Commercial Operations in the 1695-1710 MHz, 1755-1780 MHz, and 2155-2180 MHz Bands; Service Rules for Advanced Wireless Services in the 1915-1920 MHz, 1995-2000 MHz, 2020-2025 MHz, and 2175-2180 MHz Bands; Applications for License and Authority to Operate in the 2155-2175 MHz Band; Petitions for Forbearance Under 47 U.S.C. 160, Order on Reconsideration and Notice of Proposed Rulemaking,* GN Docket No. 13–185. The due date for filing reply comments as set forth in FCC 13–102 is revised to October 28, 2013.
- *Reassessment of Exposure to Radiofrequency Electromagnetic Fields Limits and Policies,* ET Docket Nos. 03–137 and 13–84; FCC 13–39. The date for filing reply comments is revised to November 18, 2013.

In addition, Bureaus and Offices may by further Public Notice set additional filing deadlines different than those specified in this Public Notice for filings in specific proceedings or classes of proceedings.

The Commission cannot waive statutory filing deadlines such as those associated with petitions for reconsideration. Nonetheless, because of the disruption and uncertainty associated with the suspension of Commission activities and the relaunch of Commission filing systems, we will not consider the Commission open for filing of documents with statutory

deadlines until Tuesday, October 22, 2013.

To the extent the due dates for filings to which reply or responsive pleadings are allowed are extended by this Public Notice, the due dates for the reply or responsive pleadings are extended by the same number of days. Thus, for example, if comments were originally due on October 30 and reply comments due ten days later, comments would now be due on November 4, 2013 and reply comments on November 14, 2013.

For these purposes, Section 1.4(j) of the Commission's rules, 47 CFR 1.4(j), otherwise requiring filings to be made on the first business day of resumed Commission operations, is hereby waived.

Federal Communications Commission.

**Joel Kaufman,**

*Associate General Counsel.*

[FR Doc. 2013–26255 Filed 10–31–13; 8:45 am]

**BILLING CODE 6712–01–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 679

**RIN 0648–BD03**

### Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands Management Area; Amendment 102

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

**ACTION:** Notice of availability of fishery management plan amendment; request for comments.

**SUMMARY:** NMFS announces that the North Pacific Fishery Management Council (Council) has submitted Amendment 102 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI FMP) for review by the Secretary of Commerce. Amendment 102 would implement a Community Quota Entity (CQE) Program for sablefish in the Aleutian Islands regulatory area. The proposed CQE Program would be similar to the existing CQE Program in the Gulf of Alaska (GOA). Amendment 102 is necessary to provide additional fishing opportunities in fishery dependent communities of the Aleutian Islands and sustain participation in the sablefish IFQ fisheries. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the BSAI FMP, and other applicable laws.

**DATES:** Comments on Amendment 102 must be received no later than 5 p.m., Alaska local time (A.l.t.), on December 31, 2013.

**ADDRESSES:** You may submit comments on this document, identified by FDMS Docket Number NOAA–NMFS–2013–0048, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0048,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.
- *Fax:* Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Fax comments to 907–586–7557.
- *Hand delivery to the Federal Building:* Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Deliver comments to 709 West 9th Street, Room 420A, Juneau, AK.

*Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

Electronic copies of the Regulatory Impact Review (RIR) and proposed rule for Amendment 102 and the RIR/Initial Regulatory Flexibility Analysis (IRFA) for the regulatory amendment to allow IFQ derived from D share halibut quota share to be fished on category C vessels in Area 4B are available from *http://www.regulations.gov* or from the NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov.*

**FOR FURTHER INFORMATION CONTACT:** Peggy Murphy, 907–586–7228.

**SUPPLEMENTARY INFORMATION:** The Magnuson-Stevens Act requires that each regional fishery management council submit any fishery management plan (FMP) or FMP amendment it prepares to the Secretary for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires the Secretary, upon receiving an FMP, to immediately publish a notice in the **Federal Register** that the FMP or amendment is available for public review and comment.

Amendment 102 to the BSAI FMP would revise the individual fishing quota program (IFQ Program) for the sablefish fisheries in the Aleutian Islands. The IFQ Program for the fixed-gear commercial fisheries for halibut and sablefish in waters in and off Alaska is a limited access privilege program implemented in 1995 (58 FR 59375, November 9, 1993). The IFQ Program limits access to the BSAI halibut and sablefish fisheries to those persons holding quota share (QS) in specific management areas. The amount of halibut and sablefish that each QS holder may harvest is calculated annually and issued as IFQ in pounds.

In 2002, the Council recommended revisions to IFQ Program regulations and policy to allow a non-profit entity to hold QS on behalf of residents of specific rural communities located adjacent to the coast of the GOA. NMFS implemented the Council's recommendations as Amendment 66 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA FMP) in 2004 (69 FR 23681, April 30, 2004). Amendment 66 implemented the community quota entity program (CQE Program) to allow these communities to form new non-profit organizations called CQEs to purchase catcher vessel QS under the IFQ Program. GOA CQEs that purchase QS on behalf of an eligible community may lease the resulting annual IFQ to fishermen who are residents of the community. The GOA CQE Program was developed to allow a distinct set of small, remote, coastal communities in Southeast and Southcentral Alaska to purchase halibut and sablefish QS for use by community residents in order to help minimize adverse economic impacts of the IFQ Program on such communities and provide for the sustained participation of the communities in the IFQ fisheries.

The Council recommended the CQE Program for the GOA, but not for

communities located adjacent to the coast of the BSAI. The CQE Program adopted by the Council, and implemented by NMFS, was specifically intended to provide opportunities to remote coastal communities in the GOA that met specific criteria that included historic participation in the GOA halibut and sablefish fisheries. The Council did not apply the CQE Program to the BSAI because nearly all small, remote, coastal communities in the BSAI also participate in the Western Alaska Community Development Quota Program (CDQ Program) that is authorized under section 305(i) of the Magnuson-Stevens Act. NMFS annually withholds a proportion of the IFQ allocation of halibut and sablefish for use as a CDQ reserve. The CDQ reserve of halibut and sablefish is allocated to CDQ groups that represent 65 coastal communities throughout the BSAI. This allocation to the CDQ Program allows the distribution of benefits from that allocation to be shared among the residents of the CDQ Program communities. In contrast, the CQE Program authorizes communities to purchase halibut and sablefish QS for use by community residents. At the time the Council recommended, and NMFS implemented, the CQE Program for the GOA, communities located in the BSAI did not meet the geographic scope, or intent, of the CQE Program.

In February 2010, the Council received a proposed amendment to the BSAI FMP from the Adak Community Development Corporation, on behalf of the community of Adak. The proposal recognized that there may be opportunity for Adak and other similarly situated communities in the Aleutian Islands to maintain and improve access to commercial halibut and sablefish fisheries through a community QS holding program similar to the GOA CQE Program. The Council initiated a formal discussion paper for review in December 2010. During its review, the Council considered the discussion paper and comments from the public, NMFS, and the State of Alaska. The Council initiated a formal analysis of the alternatives to develop an Aleutian Islands CQE program. Formal analysis was completed for initial review in October 2011 and a preferred alternative was selected. The Council's preferred alternative had several associated components and options that comprised the structure and provisions of the program which were based on those of the CQE Program in the GOA. The Council took final action in February 2012 and recommended Amendment 102 to the BSAI FMP to establish a CQE Program in the Aleutian Islands.

The basic provisions of proposed Amendment 102 are similar to those in the GOA FMP as described in the CQE Program for GOA communities (April 30, 2004, 69 FR 23681), and as amended by Amendment 94 to the GOA FMP (Feb. 22, 2013, 78 FR 12287) because the goals of the GOA CQE Program and the proposed Aleutian Islands CQE Program are similar. The Council, however, determined that the Aleutian Islands Program would differ in certain ways in order to address the Council's requirements for the proposed Aleutian Islands CQE Program. The provisions of Amendment 102 to the BSAI FMP are summarized here.

**Community Quota Share Purchases**

Amendment 102 would revise the BSAI FMP to allow a CQE representing an eligible Aleutian Islands coastal community to be eligible to purchase and hold commercial catcher vessel sablefish QS under the IFQ Program as defined and described in the BSAI FMP.

*1. Eligible Community*

A potentially eligible community would need to meet all the following criteria to participate in the proposed Aleutian Islands CQE Program: (a) Be located within the Aleutian Islands; (b) not be eligible for the CDQ Program; (c) have a population of more than 20 and less than 1,500 persons based on the 2000 U.S. Census; (d) have direct access to saltwater; (e) lack direct road access to communities with a population greater than 1,500 persons; (f) have historic participation in the halibut and sablefish fisheries; and (g) be specifically designated on a list adopted by the Council and included in regulation. These specific criteria for community eligibility, with the exception of criteria (a) and (b), would be identical to those implemented for the GOA CQE Program. Under these criteria, only one community, Adak, AK, would be eligible.

Amendment 102 would revise the BSAI FMP to establish that the administrative entity (i.e., the CQE) eligible to hold sablefish QS on behalf of the eligible community of Adak must also be the entity approved by NMFS under Amendment 18 to the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs to hold the Western Aleutian Islands golden king crab allocation on behalf of Adak. This provision differs from the GOA CQE Program in that the Council specifically designated the entity that holds the Western Aleutian Islands golden king crab allocation on behalf of Adak to the be non-profit CQE representing Adak. However, the governing body of Adak must approve the CQE to operate on behalf of the community. The CQE approval by a community governing body is required under the GOA CQE Program.

*2. Management Areas*

Amendment 102 would revise the BSAI FMP to allow a qualified non-profit organization to purchase and hold sablefish QS and associated IFQ designated for the Aleutian Islands subarea on behalf of any community meeting the qualifying criteria described above. NMFS believes that at this time, Adak is the only Aleutian Islands community that would meet the qualifying criteria. The CQE could assign the resulting annual sablefish IFQ to fixed gear sablefish fishery participants according to defined CQE Program provisions.

*3. Use and Ownership Provisions*

a. Individual community use cap. Amendment 102 would revise the BSAI FMP to establish a community use cap that would limit the amount of sablefish QS that each eligible community, as represented by a CQE, could purchase and hold. Amendment 102 would establish the CQE use cap for sablefish equal to 15 percent of the Aleutian Islands sablefish QS pool (4,789,874 QS units).

b. Cumulative community use cap. A cumulative community use cap would limit the amount of sablefish QS that all Aleutian Islands CQEs could purchase and hold collectively. Under the proposed action, Adak would be the only eligible community; therefore, the community use cap of 15 percent of the Aleutian Islands sablefish QS pool (4,789,874 QS units) also would serve as the cumulative community use cap.

c. Quota share blocks. Two block provisions would be applicable to an Aleutian Islands CQE under this FMP amendment. The first block provision would allow an Aleutian Islands CQE to purchase both blocked and unblocked Aleutian Islands sablefish QS, without restrictions on the size of blocked QS that may be held.

The second block provision would limit the number of QS blocks an Aleutian Islands CQE could hold. This limit would be the same as the limit currently applied to a GOA CQE. Under the current GOA CQE Program, each community represented by a CQE is limited to holding, at any point in time, a maximum of 5 blocks of sablefish QS in the Aleutian Islands subarea.

d. Vessel size. An Aleutian Islands CQE could purchase and hold all

categories of Aleutian Islands sablefish catcher vessel QS (B share and C share QS). The IFQ derived from sablefish B share and C share QS could be used on any size vessel regardless of the QS vessel category from which the IFQ was derived as long as the QS is held by a CQE.

*4. Transfer Provisions*

a. CQE transfer of QS. On an annual basis, an Aleutian Islands CQE could transfer sablefish IFQ derived from QS held by the CQE. CQEs holding QS may lease the IFQ derived from those QS only to residents of the eligible community with the exception that on an annual basis for a period of 5 years after the effective date of implementation of the program, a CQE may lease annual IFQ derived from CQE held QS to non-residents of the eligible community. After the 5-year period, the CQE must lease annual IFQ derived from CQE held QS to residents of the eligible community.

b. Limit on IFQ per lessee. Any CQE owning catcher vessel QS could lease, but could not exceed, 50,000 pounds of sablefish IFQ per lessee annually. The 50,000-pound (22.7-mt) limit would include any quota owned by the individual (lessee).

c. Limit on IFQ per vessel. No vessel could be used, during any fishing year, to harvest more than 50,000 pounds (22.7 mt) of IFQ sablefish derived from QS held by a CQE, and no vessel used to harvest IFQ sablefish derived from CQE held QS could be used to harvest more IFQ sablefish than the vessel use caps specified in § 679.42(h). A vessel could be used to harvest additional IFQ from non-CQE-held QS up to the overall vessel use cap applicable in the IFQ Program, if the overall vessel use cap were greater than 50,000 pounds (22.7 mt). If the vessel use cap in the IFQ Program were lower than 50,000 pounds (22.7 mt) in a given year, then the lowest vessel use cap would apply.

d. Sale of QS. An Aleutian Islands CQE holding sablefish catcher vessel QS could only transfer the QS to another CQE eligible community or any person meeting the provisions outlined in Section 3.7.1.4 of the BSAI FMP. At this time, Adak would be the only community eligible to be represented by a CQE in the Aleutian Islands; therefore, a CQE representing Adak could only transfer its catcher vessel QS to an individual or initial recipient eligible under the IFQ Program rules. An Aleutian Islands CQE could not transfer Aleutian Islands sablefish QS to any of the GOA CQEs eligible to hold QS under the GOA CQE Program because those CQEs are prohibited under existing regulations from purchasing QS outside the GOA.

e. Purposes of sale. An Aleutian Islands CQE may only transfer QS for one of the following purposes: to generate revenues to sustain, improve, or expand the program; or to liquidate the CQE's QS assets for reasons outside the program. Should an eligible community transfer their QS for reasons not consistent with these purposes, the CQE administrative entity would not be qualified to purchase and hold QS on behalf of that community for a period of 3 years.

A RIR was prepared for Amendment 102 that describes the CQE Program, the purpose and need for this action, the management alternatives evaluated to address this action, and the economic and socioeconomic effects of the alternatives (see **ADDRESSES**). An IRFA is also included in the proposed rule for Amendment 102 that describes the impact of the proposed rule on small entities (see **ADDRESSES**).

Amendment 102 and its proposed implementing regulations are designed to comply with the Magnuson-Stevens Act, the national standards, and other applicable law. The proposed amendment and implementing regulations particularly address national standard 8, which provides that conservation and management programs shall, consistent with the conservation requirements of the Act, take into account the importance of fishery resources to fishing communities in order to provide for the sustained participation of such communities, and to the extent practicable, minimize adverse economic impacts on such communities. The IFQ Program for Pacific halibut is implemented under the authority of the Northern Pacific Halibut Act of 1982. The Council does not have a halibut fishery management plan. The Council and Secretary of Commerce, however, consider the impacts of all the IFQ management measures on fishery-dependent communities. If Amendment 102 is approved, then sablefish and halibut components would be implemented in one rule. Amendment 102 is intended to promote the goals and objectives of the Magnuson-Stevens Act, the BSAI FMP, and other applicable laws.

Public comments are being solicited on Amendment 102 and associated documents through the end of the comment period stated in this notice of availability. A proposed rule that would implement Amendment 102 will be published in the **Federal Register** for public comment following NMFS evaluation under Magnuson-Stevens Act procedures. Public comments, whether specifically directed to the amendment or the proposed rule, must be received, not just postmarked or otherwise transmitted, by 5 p.m., A.l.t., on the last day of the comment period (see **DATES**). Comments received by the end of the comment period will be considered in the approval/disapproval decision on Amendment 102. Comments received after that date will not be considered in the decision to approve or disapprove Amendment 102.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: October 29, 2013.

**James P. Burgess,**

*Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2013–26106 Filed 10–31–13; 8:45 am]

**BILLING CODE 3510–22–P**

# Notices

Federal Register

Vol. 78, No. 212

Friday, November 1, 2013

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Submission for OMB Review; Comment Request

October 29, 2013.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by December 2, 2013 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725 17th Street NW., Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

#### Animal and Plant Health Inspection Service

*Title:* Customer Service Survey Project.

*OMB Control Number:* 0579–0334.

*Summary of Collection:* The Animal Health Protection Act of 2002 (7, U.S.C. 8301, et seq.), authorizes the Secretary of the U.S. Department of Agriculture to prevent, control and eliminate domestic diseases such as tuberculosis and brucellosis and to take actions to prevent and to manage foreign animal diseases such as hog cholera, foot-and-mouth disease. The Veterinary Services (VS) program of the Animal and Plant Health Inspection Service (APHIS), USDA, carries out this work. This information collection solicits the beliefs and opinions of persons who use VS services and products. The survey is required to solicit information from the general public who utilize the business services and animal programs administered by the USDA, APHIS, and VS.

*Need and Use of the Information:* The data collected from the survey will provide the local Area Office Manager with a general view of the public's perception of customer service and indicate problems which can be addressed locally. The survey will also provide feedback from the public on recommendations to improve upon customer service and provide a vehicle in which questions can be asked about VS to educate the public.

*Description of Respondents:* Business or other for-profit; Farms; Individuals or households; Not-for-profit institutions; State, Local or Tribal Government.

*Number of Respondents:* 5,000.

*Frequency of Responses:* Reporting: On occasion.

*Total Burden Hours:* 248.

**Ruth Brown,**

*Departmental Information Collection Clearance Officer.*

[FR Doc. 2013–26143 Filed 10–31–13; 8:45 am]

BILLING CODE 3410–34–P

## DEPARTMENT OF AGRICULTURE

### Submission for OMB Review; Comment Request

October 29, 2013.

The Department of Agriculture will submit the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. Comments regarding (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, Washington, DC; New Executive Office Building, 725 17th Street NW., Washington, DC 20503. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602.

Comments regarding these information collections are best assured of having their full effect if received by December 2, 2013. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

#### Agricultural Marketing Service

*Title:* Reporting and Recordkeeping Requirements Under Regulations (Other Than Rules of Practice) Under the Perishable Agricultural Commodities Act, 1930.

*OMB Control Number:* 0581–0031.

*Summary of Collection:* The Perishable Agricultural Commodities Act (PACA) (7 U.S.C. 499a–499t) and 7 CFR part 46, establishes a code of fair trading practices covering the marketing of fresh and frozen fruits and vegetables

in interstate or foreign commerce. It protects growers, shippers and distributors by prohibiting unfair practices. PACA requires nearly all persons who operate as commission merchants, dealers and brokers buying or selling fruit and or vegetables in interstate or foreign commerce to be licensed. The license for retailers and grocery wholesalers is effective for three years and for all other licensees up to three years, unless withdrawn.

*Need and Use of the Information:* Using various forms and business records, AMS will collect information from the applicant to administer licensing provisions under the Act, to adjudicate contract disputes, and for the purpose of enforcing the PACA and its regulations. If this information were unavailable, it would be impossible to identify and regulate the individuals or firms that are restricted due to sanctions imposed because of the reparation or administrative actions.

*Description of Respondents:* Business or other for-profit; farms.

*Number of Respondents:* 14,540.

*Frequency of Responses:* Recordkeeping; Reporting: On occasion.

*Total Burden Hours:* 87,455.

**Charlene Parker,**

*Departmental Information Collection Clearance Officer.*

[FR Doc. 2013–26133 Filed 10–31–13; 8:45 am]

**BILLING CODE 3410–02–P**

## DEPARTMENT OF AGRICULTURE

### Submission for OMB Review; Comment Request

October 29, 2013.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

#### Food and Nutrition Service

*Title:* Impact of Implementation of the Affordable Care Act (ACA) on SNAP Operations and Participation.

*OMB Control Number:* 0584—NEW.

*Summary of Collection:* The Food and Nutrition Service (FNS) seeks approval to conduct a new information data collection to access the impact of implementation of the Affordable Care Act (ACA) on Supplemental Nutrition Assistance Program (SNAP) operations and participation. This issue has major significance not only in its implications for Federal and state budgets, but also more generally for the economic well-being of American's adult workers and their families. Section 17 [7 U.S.C. 2026] (a)(1) of the Food and Nutrition Act of 2008 provides general legislative authority for the planned data collection.

*Need and Use of the Information:* This study will assess the impact of ACA implementation on SNAP participation specifically among nonelderly nondisabled adults aged 19 to 64. ACA could potentially have a profound impact on SNAP participation among this group of people in many ways. The main research objectives for this study are grouped into the following three categories: (1) Describe the coordination of SNAP and Medicaid enrollment and renewal processes in the state and whether this changes due to ACA; (2) Describe the process of directing Medicaid applicants to SNAP; and (3) Determine the impact of ACA implementation on the number of SNAP applications. If the data collection in this study is not conducted, those responsible at the Federal, state and local levels for designing and implementing SNAP and Medicaid policies and procedures will not have the value of this research in making their decisions on matters affecting potential cost-saving coordination and integration between the two programs.

*Description of Respondents:* Individuals or households; Not-for-profit institutions; State, Local or Tribal Government.

*Number of Respondents:* 121.

*Frequency of Responses:* Reporting: Annually.

*Total Burden Hours:* 915.

**Ruth Brown,**

*Departmental Information Collection Clearance Officer.*

[FR Doc. 2013–26131 Filed 10–31–13; 8:45 am]

**BILLING CODE 3410–30–P**

## DEPARTMENT OF AGRICULTURE

### Agricultural Research Service

### Availability of the Final Environmental Assessment (EA) and a Finding of No Significant Impact (FONSI) of the J. Phil Campbell, Sr., National Resource Conservaton Center (JPC–NRCC)

**AGENCY:** Agricultural Research Service, USDA.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. Department of Agriculture (USDA) Agricultural Research Service (ARS) has made a FONSI for transferring the land and real estate at the JPC–NRCC in Watkinsville, Georgia, to the Board of Regents of the University System of Georgia for the benefit of the University of Georgia (UGA). The FONSI document is based on impact analysis documented in the EA that was issued for 30-day public comment beginning July 5, 2013 and finalized on August 29, 2013.

**FOR FURTHER INFORMATION CONTACT:** Cal Mather, Environmental Protection Specialist, USDA–ARS–SHEMB, NCAUR, 1815 N. University Street, Room 2060, Peoria, Illnois 61604, Telephone: 309–681–6608, or email: *cal.mather@ars.usda.gov*. You may contact Mr. Mather for a hard copy of the FONSI. Copies of the Final EA and FONSI for the JPC–NRCC Land Transfer are also available for public inspection during normal business hours at the following locations:

- J. Phil Campbell, Sr., Research and Education Center Headquarters, 1420 Experiment Station Road, Watkinsville, Georgia 30677.
- Oconee County Public Library, 1080 Experiment Station Road, Watkinsville, Georgia 30677.

• Athens-Clarke County Public Library, 2025 Baxter Street, Athens, Georgia 30606.

**SUPPLEMENTARY INFORMATION:** In accordance with the National Environmental Policy Act (NEPA) of 1969, as amended, and the Federal Land Policy and Management Act of 1976 (FLPMA), as amended, the USDA has prepared an EA for the proposed transfer of approximately 1,055 acres of land at the JPC–NRCC from the USDA ARS in Watkinsville, Georgia to the Board of Regents of the University System of Georgia for the benefit of UGA. The USDA ARS signed a FONSI on August 30, 2013 based on the Final EA.

The Final EA evaluated USDA's proposal to transfer approximately 1,055 acres of land and facilities at the JPC–NRCC from USDA ARS in Watkinsville, GA to the Board of Regents of the University System of Georgia for the benefit of UGA. As a condition of the transfer, UGA would commit to using the property for agricultural and natural resources research for a period of 25 years, supporting the strategic goals of USDA and establishing a Beginning Farmers and Ranchers Program at the Property. UGA would assume responsibility for management and maintenance of the constructed facilities and land to be conveyed from USDA.

The JPC–NRCC has been in operation as a USDA ARS research station since 1937, with the mission, ''to develop and transfer environmentally sustainable and profitable agricultural systems to landowners and managers in order to protect the natural resource base, build accord with non-agricultural sectors, and support healthy rural economies.'' The facility was closed under Public Law (Pub. L.) 112–55, Consolidated and Further Continuing Appropriations Act, 2012. In August 2012, a 5-year revocable permit was issued between USDA and the Board of Regents of the University System of Georgia that allows the College of Agricultural and Environmental Sciences (CAES) to utilize the Property as a Research and Education Center (REC) and conduct a wide range of research, teaching, extension and demonstration activities. Since August 2012, it has been operated by the CAES as the JPC–REC under this permit. A Memorandum of Understanding was executed on March 25, 2013 that would allow the formal transfer of the Property from USDA to the Board of Regents of the University System of Georgia.

The property transfer will be done with no monetary cost to UGA and a Quit Claim Deed will be prepared by the USDA to convey the title/property rights to the Board of Regents of the University System of Georgia. The Quit Claim Deed will incorporate any use restrictions identified by the NEPA process as well as the 25-year use restriction for agricultural and natural resources research as required by Section 732 of the Public Law.

Two alternatives are analyzed in the Final EA, the No Action Alternative and the Proposed Action. The Final EA addresses potential impacts of these alternatives on the natural and human environment.

• Alternative 1—No Action. The USDA would retain possession of the approximately 1,055 acres of land and facilities at the JPC–NRCC. USDA would no longer operate and/or maintain the property and current research at the property would cease.

• Alternative 2—Proposed Action. The USDA would formally transfer approximately 1,055 acres of land at the JPC–NRCC to the Board of Regents of the University System of Georgia. As a condition of the transfer, UGA would commit to using the Property for agricultural and natural resources research for a period of 25 years, supporting the strategic goals of USDA and establishing a Beginning Farmers and Ranchers Program at the Property. UGA would assume responsibility for management and maintenance of the constructed facilities and land to be conveyed from USDA. This land transfer alternative meets the purpose and need of the action.

In addition, one alternative was considered in the Final EA but eliminated from detailed study. In this alternative, USDA would retain possession of the land and it would be transferred to the General Services Administration for disposal. Since it cannot reasonably be determined who would ultimately take possession of the property and how it would be utilized, it was not analyzed in detail in the EA.

A Notice of Availability of the Draft EA was issued in the **Federal Register** on July 5, 2013. This notice announced the opening of a 30-day public comment period. The USDA used and coordinated the NEPA commenting process to satisfy the public involvement process for Section 106 of the National Historic Preservation Act (16 U.S.C. 470(f) as provided for in 36 CFR 800.2(d)(3)). No comments were received during the public comment period. Based on its analysis of the Final EA for the property transfer, ARS has found that transferring the land and buildings to the Board of Regents of the University System of Georgia for the benefit of UGA would have no significant impact on the quality of the human environment. Therefore, ARS will not prepare an Environmental Impact Statement for this proposed action.

Dated: October 21, 2013.

**Caird E. Rexroad, Jr.,**

*Associate Administrator, Agricultural Research Service.*

[FR Doc. 2013–26023 Filed 10–31–13; 8:45 am]

BILLING CODE 3410–03–P

## DEPARTMENT OF AGRICULTURE

### Agricultural Research Service

### Availability of the Final Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) of the Kika de la Garza Subtropical Research Center (KSARC)

**AGENCY:** Agricultural Research Service, USDA.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. Department of Agriculture (USDA) Agricultural Research Service (ARS) has made a FONSI for transferring the land and real estate at the KSARC in Weslaco, Texas to the Texas A&M University System (TAMUS). The FONSI document is based on impact analysis documented in the draft EA that was issued for a 30-day public comment period beginning on August 2, 2013 and that was finalized on September 4, 2013.

**FOR FURTHER INFORMATION CONTACT:** Phil Smith, Acting Property Team Lead, USDA–ARS–WBSC, 1001 Holleman Drive East, College Station, Texas 77840; Telephone: 979–260–9449; email: *phil.smith@ars.usda.gov*. You may contact Mr. Smith for a copy of the FONSI document. Copies of the Final EA and FONSI are available for public inspection during normal business hours at the following locations:

• Weslaco Public Library, 525 South Kansas Avenue, Weslaco, Texas 78596.

• Larry Ringer Library, 1818 Harvey Mitchell Parkway South, College Station, Texas 77845.

**SUPPLEMENTARY INFORMATION:** In accordance with the National Environmental Policy Act (NEPA) of 1969, as amended, and the Federal Land Policy and Management Act of 1976 (FLPMA), as amended, USDA ARS has prepared a Final EA for the proposed transfer of approximately 70-acres of land and associated buildings at the KSARC in Weslaco, Texas from the USDA ARS to TAMUS. The KSARC is divided into two separate properties, with the main research station located at

2413 East Highway 83, Weslaco, Texas 77840 and a research farm located at 2301 South International Boulevard, Weslaco, Texas 77840. As a condition of the transfer, TAMUS would commit to using the property for agricultural and natural resources research for a period of 25 years, supporting the strategic goals of USDA and establishing a Beginning Farmers and Ranchers Program at the Property. TAMUS would assume responsibility and maintenance of the constructed facilities and land to be conveyed from USDA. The KSARC has been in operation as a USDA ARS research facility since 1960, with the mission ''to increase food and fiber productivity by developing new technology for safe and efficient agricultural production methods and by conserving natural resources and protecting the environment.'' The facility was closed under Public Law (Pub. L.)112–55, Consolidated and Further Continuing Appropriations Act, 2012 and is currently being utilized in a very limited capacity by researchers from other ARS locations. Under the terms of the PL, the Secretary of Agriculture has the authority to transfer the Property from USDA to TAMUS. If the Property is tranferred, it will be done with no monetary cost to TAMUS and a Deed Without Warranty will be prepared by the USDA to convey the title/property rights to TAMUS. The Deed Without Warranty would incorporate any use restrictions identified by the NEPA process, as well as the 25-year use restriction for agricultural and natural resources research as required by Section 732 of the PL.

Two alternatives are analyzed in the Final EA, the No Action Alternative and the Proposed Action. The Final EA addresses potential impacts of these alternatives on the natural and human environment.

- Alternative 1—No Action. The USDA would retain possession of the approximate 70 acres of land and facilities at the KSARC. The USDA would no longer operate and/or maintain approximately 85–90% of the property and it would likely fall into a state of disrepair. The USDA will continue ongoing research funded by other Locations on the remaining 10–15% of the property.
- Alternative 2—Proposed Action. The USDA would formally transfer approximately 70 acres of land at the KSARC to TAMUS. As a condition of the transfer, TAMUS would commit to using the Property for agricultural and natural resources research for a period of 25 years, supporting the strategic goals of USDA and establishing a Beginning Farmers and Ranchers Program at the Property. TAMUS would assume responsibility and maintenance of the constructed facilities and land to be conveyed from USDA.

In addition, one alternative was considered in the Draft EA but eliminated from detailed study. In this alternative, USDA would retain possession of the land and it would be transferred to the General Services Administration for disposal. Since it cannot reasonably be determined who would ultimately take possession of the property and how it would be utilized, it was not analyzed in detail in the EA.

The USDA used and coordinated the NEPA commenting process to satisfy the public involvement process for Section 106 of the National Historic Preservation Act (16 U.S.C. 470(f) as provided for in 36 CFR 800.2(d)(3)). No comments were received during the public comment period. Based on its analysis of the Final EA for the poperty transfer, ARS has found that transferring the land and buildings to TAMUS would have no significant impact on the quality of the human environment. Therefore, ARS will not prepare an Environmental Impact Statement for this proposed action.

Dated: October 22, 2013.

**Caid E. Rexroad, Jr.,**

*Associate Administrator, Agricultural Research Service.*

[FR Doc. 2013–26015 Filed 10–31–13; 8:45 am]

**BILLING CODE 3410–03–P**

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## DEPARTMENT OF AGRICULTURE

### Forest Service

### Information Collection; Outreach Opportunity Questionnaire

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice; request for comment.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, the Forest Service is seeking comments from all interested individuals and organizations on the extension with revision of a currently approved information collection, Outreach Opportunity Questionnaire.

**DATES:** Comments must be received in writing on or before December 31, 2013 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

**ADDRESSES:** Comments concerning this notice should be addressed to the Northern Research Station, Attention: Judy Terrell, USDA, Forest Service, 11 Campus Boulevard, Suite 200, Newtown Square, PA 19073. Comments also may be submitted via email to: *jterrell@fs.fed.us.*

The public may inspect comments received at USDA Forest Service, 11 Campus Boulevard, Suite 200, Newtown Square, PA 19073 during normal business hours. Visitors are encouraged to call ahead to 610–557–4257 to facilitate entry to the building.

**FOR FURTHER INFORMATION CONTACT:** Judy Terrell, 610–557–4257. Individuals who use TDD may call the Federal Relay Service (FRS) at 1–800–877–8339, between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday.

**SUPPLEMENTARY INFORMATION:**

*Title:* Outreach Opportunity Questionnaire.

*OMB Number:* 0596–0207.

*Expiration Date of Approval:* January 31, 2014.

*Type of Request:* Extension with revision.

*Abstract:*

This information collection collects information from students attending local college and university career fairs regarding the effectiveness of the information provided by the Forest Service personnel on career opportunities in the Forest Service. The collection is necessary to evaluate and determine the effectiveness of the Forest Service Northern Research Station's (NRS) Civil Rights Outreach Program.

Forest Service Civil Rights personnel utilize the Outreach Opportunity Questionnaire to collect evaluation information from students regarding presentations at career day events as well as at colleges and universities. Data received has appeared in reports provided to the U.S. Department of Agriculture, senior Forest Service officials, the NRS Director, and the NRS Civil Rights Diversity Committee. This information is a vital component in the analysis of Agency outreach efforts.

*Type of Respondents:* Individuals.

*Estimated Annual Number of Respondents:* 520.

*Estimated Annual Number of Responses per Respondent:* 1.

*Estimate of Burden per Response:* 2 minutes.

*Estimated Total Annual Burden on Respondents:* 17.33 hours.

Comment is invited on: (1) Whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the Agency, including whether the information will have practical or scientific utility; (2) the accuracy of the Agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance

the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the request for Office of Management and Budget approval.

Dated: October 28, 2013.

**J. Lenise Lago,**

*Deputy Chief, Business Operations.*

[FR Doc. 2013–26009 Filed 10–31–13; 8:45 am]

**BILLING CODE 3410–11–P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Medicine Bow-Routt National Forests and Thunder Basin National Grassland; Wyoming; Thunder Basin National Grassland Prairie Dog Amendment Environmental Impact Statement; Correction

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of intent to prepare an environmental impact statement; Correction.

**SUMMARY:** A Notice of Intent (NOI) for this proposal was first published in the **Federal Register** on September 13, 2013 (78 FR 56650). This corrected NOI is being published to reinitiate the scoping period to allow for the rescheduling of public meetings that were cancelled during the original scoping period due to the lapse in government funding; to identify adjustments in project timelines; and to identify the State of Wyoming and the United States Fish and Wildlife Service (USFWS) as Cooperating Agencies. No changes to the Proposed Action or Purpose of and Need for Action have been made.

**DATES:** Comments in response to this corrected NOI should be received by January 3, 2014. Please note that all comments received during the previous scoping period (ended October 28, 2013) will be considered in the preparation of the environmental impact statement (EIS). The Draft EIS is expected to be published in June 2014 and the Final EIS is expected to be published in October 2014.

**ADDRESSES:** Written comments concerning this notice should be addressed to: Responsible Official, Douglas Ranger District, 2250 East Richards Street, Douglas, Wyoming 82633. Comments may also be sent via email to *comments-rm-mbr-douglas-thunder-basin@fs.fed.us* or via facsimile to (307) 358–7107.

All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the address provided above. Visitors are encouraged to call ahead (307–358–4690) to facilitate entry into the building.

**FOR FURTHER INFORMATION CONTACT:** Thomas Whitford, District Ranger, Douglas Ranger District, Medicine Bow-Routt National Forests and Thunder Basin National Grassland. Telephone: (307) 358–4690.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

**SUPPLEMENTARY INFORMATION:**

#### Lead and Cooperating Agencies

The United States Forest Service, Medicine Bow-Routt National Forests and Thunder Basin National Grassland, is the lead agency. The United States Fish and Wildlife Service (USFWS) and the State of Wyoming would be cooperating agencies.

#### Responsible Official

The Forest Supervisor, Medicine Bow-Routt National Forests and Thunder Basin National Grassland, 2468 Jackson Street, Laramie, Wyoming 82070, is the official responsible for making the decision on this action.

#### Nature of Decision To Be Made

Site-specific management proposals, alternatives to the Proposed Action, and the effects of the activities proposed in the alternatives will be analyzed in the Thunder Basin National Grassland Prairie Dog Amendment EIS. The EIS will form the basis for the Responsible Official to determine:

1. Whether the Proposed Action will proceed as proposed, as modified by an alternative, or not at all; and
2. Design criteria and monitoring requirements necessary for project implementation.

#### Scoping Process

This notice of intent reinitiates the scoping process, which guides the development of the environmental impact statement. While public comments are welcome at any time, comments received during the scoping period are most useful for the identification of issues and the development and analysis of alternatives to the Proposed Action. More detailed information specific to the Proposed Action (e.g., scoping document and maps) is located on the World Wide Web at: *http://www.fs.fed.us/nepa/nepa_project_exp.php?project=42753.*

Along with this opportunity to comment, the Forest Service will also be hosting four Open House/Presentation meetings for the Thunder Basin National Grassland Prairie Dog Amendment. The Open House/Presentation meetings will be held on November 18th, 19th, 20th, and 21st, 2013.

- November 18th: Douglas, Wyoming—Douglas National Guard Armory—315 Pearson Road
- November 19th: Newcastle, Wyoming—USDA Hell Canyon Ranger District Office—1225 Washington Boulevard
- November 20th: Wright, Wyoming—Wright Town Hall—Council Room—201 Wright Boulevard
- November 21st: Cheyenne, Wyoming—Laramie County Library—Sunflower Room—2200 Pioneer Avenue

The meetings will begin at 4:00 p.m. and generally last until 7:00 p.m. The meetings will begin with a 30-minute Open House, followed by a short presentation and time for public comment, and ending with additional time for viewing of Open House materials and displays. Forest Service employees assigned to the Thunder Basin National Grassland Prairie Dog Amendment will be available to discuss and answer questions the public may have about the Proposed Action.

The Forest Service will be operating under the new Part 218—Project-level Pre-decisional Administrative Review Process (hereinafter referred to as 'objection'), 36 CFR 218 subparts A and B, for this analysis. Per these regulations, individuals and entities who submit timely, specific written comments regarding a proposed project or activity during any designated opportunity for public comment will have standing to file an objection. This includes requests for comments during this initial scoping period as well as comments submitted during the 45-day comment period for the Draft EIS.

It is the responsibility of persons providing comments to submit them by the close of established comment periods. Only those who submit timely

and specific written comments will have eligibility (36 CFR 218.5) to file an objection under 36 CFR 218.8. For objection eligibility, each individual or representative from each entity submitting timely and specific written comments must either sign the comment or verify identity upon request. Individuals and organizations wishing to be eligible to object must meet the information requirements in § 218.25(a)(3). Names and contact information submitted with comments will become part of the public record and may be released under the Freedom of Information Act.

Dated: October 25, 2013.

**Phil Cruz,**

*Forest Supervisor.*

[FR Doc. 2013–26049 Filed 10–31–13; 8:45 am]

**BILLING CODE 3410–11–P**

## DEPARTMENT OF AGRICULTURE

### National Institute of Food and Agriculture

### Notice of Intent To Change the Submission Requirements of a Currently Approved Information Collection

**AGENCY:** National Institute of Food and Agriculture, USDA.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 and Office of Management and Budget (OMB) regulations, this notice announces the National Institute of Food and Agriculture's (NIFA) intention to revise a currently approved information collection entitled, ''Reporting Requirements for State Plans of Work for Agricultural Research and Extension Formula Funds.''

**DATES:** Written comments on this notice must be received by December 31, 2013 to be assured of consideration. Comments received after this date will be considered to the extent practicable.

**ADDRESSES:** You may submit comments by any of the following methods: Email: Include [Plan of Work] in the subject line of the message. *rmartin@nifa.usda.gov;* Fax: 202–720–0857; Mail: Office of Information Technology (OIT), NIFA, USDA, STOP 2216, 1400 Independence Avenue SW., Washington, DC 20250–2216.

**FOR FURTHER INFORMATION CONTACT:** Robert Martin, eGovernment Program Leader; Email: *rmartin@nifa.usda.gov.*

**SUPPLEMENTARY INFORMATION:**

*Title:* Reporting Requirements for State Plans of Work for Agricultural Research and Extension Formula Grants.

*OMB Number:* 0524–0036.

*Expiration Date of Current Approval:* August 31, 2016.

*Type of Request:* Notice of intent to change the submission requirements for a currently approved information collection. The burden for this submission remains unchanged.

**Authority:** Pub. L. 104–13 and 5 CFR part 1320 (60 FR 44977, August 29, 1985).

*Abstract:* This notice changes the requirement for institutions within a state to submit individual Plans of Work and Annual Reports of Accomplishments; and now will require states to submit the Plans of Work and Annual Reports of Accomplishments as a single integrated State-wide submission. In a memorandum dated November 8, 2012, Dr. Sonny Ramaswamy, NIFA Director, stated NIFA's intent to implement this policy change, in accordance with the Agriculture, Research, Extension, and Education Reform Act of 1998 (AREERA), beginning with the FY 2015–2019 Plan of Work Update, due April 1, 2014, to require that all Plans of Work be submitted at the ''state level''. NIFA defines ''state level'' as the combining of all 1862 and 1890 Land-Grant University and State Research and Extension entities within the same State or Insular Area. Full integration of Research and Extension entities in a State enables full demonstration of effective partnership and leveraging in the use of the federal grant dollars subject to the Plan of Work.

The intent is to replace section II.A.1. of the Guidelines for State Plans of Work for Agricultural Research and Extension Formula Funds published in the **Federal Register** (71 FR 4101, 25 January 2006)) with the following text:

**II. Submission of the 5-Year Plan of Work**

*A. General*

1. Planning Option

This document provides guidance for preparing the Plan of Work (POW) with preservation of programmatic flexibility within the Federal-State Partnership. The POW is a 5-year prospective plan that covers the initial period of FY 2007 through FY 2011, with the submission of annual updates to the 5-Year POW to add an additional year to the plan each year. The 5-Year POWs must be prepared for state-wide activities, which include research and extension activities for all the eligible institutions in a State. Each 5-Year POW must reflect the content of the program(s) funded by Federal agricultural research and extension formula funds and the required matching funds. This 5-Year POW must describe how the program(s) address critical short-term, intermediate, and long-term agricultural issues in a State.

*Comments:* Comments are invited on: (a) Whether the proposed change to the guidelines is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; and (b) whether the proposed change to the guidelines will present undue burden on the respondents. All responses to this notice will be summarized and included in the request to OMB for approval. All comments will become a matter of public record. Obtaining a Copy of the Information Collection: A copy of the information collection and related instructions may be obtained free of charge by contacting Robert Martin as directed above.

Done in Washington, DC, this 18th day of October 2013.

**Catherine E. Woteki,**

*Under Secretary, Research, Education, and Economics.*

[FR Doc. 2013–25990 Filed 10–31–13; 8:45 am]

**BILLING CODE 3410–22–P**

## CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

### Sunshine Act Meeting

**TIME AND DATE:** November 14, 2013, 10:30 a.m.–1:30 p.m. CST.

**PLACE:** Radisson Hotel & Conference Center, Banquet Room 5, 200 S. Bell School Road, Rockford, IL 61108.

**STATUS:** Open to the public.

**MATTERS TO BE CONSIDERED:** The Chemical Safety and Hazard Investigation Board (CSB) will convene a public meeting on November 14, 2013, starting at 10:30 a.m., CST at the Radisson Hotel and Conference Center, Banquet Room 5, 200 S. Bell School Road, Rockford, IL 61108. At the public meeting, the Board will consider and vote on the draft case study of the December 7, 2009, accident at NDK Crystal, Inc., in Belvidere, Illinois, and possibly other items at the discretion of the Chair.

The CSB's case study examines the violent rupture of a 50-foot pressure vessel used to produce synthetic crystals. The vessel, located in an enclosed building, generated several projectiles during the explosion that resulted in one fatality and one injury to members of the public, and

significant property damage to NDK Crystal and to an adjacent business.

At the meeting, CSB staff will present to the Board the results of the investigation into this incident. Key issues identified in the investigation include pressure vessel design and material selection requirements, learning from previous incidents, and routine and thorough inspections of equipment. Following the staff presentation on proposed findings and safety recommendations, the Board will hear brief comments from the public.

Following the conclusion of the public comment period, the Board will consider whether to approve the final case study and recommendations. All staff presentations are preliminary and are intended solely to allow the Board to consider in a public forum the issues and factors involved in this case. No factual analyses, conclusions, or findings presented by staff should be considered final.

Only after the Board has considered the staff presentations, listened to public comments, and adopted a final investigation report and recommendations will there be an approved final record of the CSB investigation of this incident.

**Additional Information**

The meeting is free and open to the public. If you require a translator or interpreter, please notify the individual listed below as the ''Contact Person for Further Information,'' at least five business days prior to the meeting.

The CSB is an independent federal agency charged with investigating accidents and hazards that result, or may result, in the catastrophic release of extremely hazardous substances. The agency's Board Members are appointed by the President and confirmed by the Senate. CSB investigations look into all aspects of chemical accidents and hazards, including physical causes such as equipment failure as well as inadequacies in regulations, industry standards, and safety management systems.

**Public Comment**

Members of the public are invited to make brief statements to the Board at the conclusion of the staff presentation. The time provided for public statements will depend upon the number of people who wish to speak. Speakers should assume that their presentations will be limited to five minutes or less, and may submit written statements for the record.

**Contact Person for Further Information**

Hillary J. Cohen, Communications Manager, *hillary.cohen@csb.gov* or (202) 446–8094. General information about the CSB can be found on the agency Web site at: *www.csb.gov*.

Dated: October 29, 2013.

**Rafael Moure-Eraso,**

*Chairperson.*

[FR Doc. 2013–26286 Filed 10–30–13; 11:15 am]

BILLING CODE 6350–01–P

## DEPARTMENT OF COMMERCE

### Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*Agency:* National Oceanic and Atmospheric Administration (NOAA).

*Title:* Alaska Region Gear Identification Requirements.

*OMB Control Number:* 0648–0353.

*Form Number(s):* NA.

*Type of Request:* Regular submission (extension of a current information collection).

*Number of Respondents:* 980.

*Average Hours per Response:* 15 minutes.

*Burden Hours:* 1,838.

*Needs and Uses:* This request is for extension of a current information collection.

Regulations at 50 CFR 679.24(a) require that all hook-and-line, longline pot, and pot-and-line marker buoys carried onboard or used by any vessel regulated under 50 CFR part 679 shall be marked with the vessel name and Federal fisheries permit number or Alaska Department of Fish and Game (ADF&G) vessel registration number. The regulations also specify the size and color of markings. The marking of gear aids law enforcement and enables other fishermen to report on misplaced gear.

*Affected Public:* Business or other for-profit organizations.

*Frequency:* Annually.

*Respondent's Obligation:* Mandatory.

*OMB Desk Officer: OIRA_Submission@omb.eop.gov.*

Copies of the above information collection proposal can be obtained by calling or writing Jennifer Jessup, Departmental Paperwork Clearance Officer, (202) 482–0336, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov.*

Dated: October 28, 2013.

**Gwellnar Banks,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. 2013–26026 Filed 10–31–13; 8:45 am]

BILLING CODE 3510–22–P

## DEPARTMENT OF COMMERCE

### International Trade Administration

### Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Advance Notification of Sunset Reviews

**AGENCY:** Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

**Background**

Every five years, pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''), the Department of Commerce (''the Department'') and the International Trade Commission automatically initiate and conduct a review to determine whether revocation of a countervailing or antidumping duty order or termination of an investigation suspended under section 704 or 734 of the Act would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury.

**Upcoming Sunset Reviews for December 2013**

The following Sunset Reviews are scheduled for initiation in December 2013 and will appear in that month's Notice of Initiation of Five-Year Sunset Review (''Sunset Review'').

| | Department contact |
|---|---|
| **Antidumping Duty Proceedings** | |
| Circular Welded Carbon Quality Steel Line Pipe from China (A–570–935) (1st Review) | Charles Riggle, (202) 482–0650. |
| Diamond Sawblades from China (A–570–900) (1st Review) | David Goldberger, (202) 482–4136. |

| | Department contact |
|---|---|
| **Countervailing Duty Proceedings** | |
| Circular Welded Carbon Quality Steel Line Pipe from China (C–570–936) (1st Review) ..... | David Goldberger, (202) 482–4136. |

**Suspended Investigations**

No Sunset Review of suspended investigations is scheduled for initiation in December 2013.

The Department's procedures for the conduct of Sunset Reviews are set forth in 19 CFR 351.218. Guidance on methodological or analytical issues relevant to the Department's conduct of Sunset Reviews is set forth in the Department's Policy Bulletin 98.3—*Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin,* 63 FR 18871 (April 16, 1998). 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: October 24, 2013.

**Christian Marsh,**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. 2013–26257 Filed 10–31–13; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

### Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

**AGENCY:** Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

**FOR FURTHER INFORMATION CONTACT:** Brenda E. Waters, Office of AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone: (202) 482–4735.

**Background**

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspended investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended (''the Act''), may request, in accordance with 19 CFR 351.213, that the Department of Commerce (''the Department'') conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

All deadlines for the submission of comments or actions by the Department discussed below refer to the number of calendar days from the applicable starting date.

**Respondent Selection**

In the event the Department limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, 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 has found that determinations concerning whether particular companies should be ''collapsed'' (*i.e.,* treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, the Department will not conduct collapsing analyses at the respondent selection phase of this review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this antidumping proceeding (*i.e.,* investigation, administrative review, new shipper review or changed circumstances review). For any company subject to this review, if the Department determined, or continued to treat, that company as collapsed with others, the Department will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, the Department will not collapse companies for purposes of respondent selection. Parties are requested to (a) identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete the Quantity and Value Questionnaire for purposes of respondent selection, in general each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of this proceeding where the Department considered

collapsing that entity, complete quantity and value data for that collapsed entity must be submitted.

**Deadline for Withdrawal of Request for Administrative Review**

Pursuant to 19 CFR 351.213(d)(1), a party that has requested a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that the Department may extend this time if it is reasonable to do so. In order to provide parties additional certainty with respect to when the Department will exercise its discretion to extend this 90-day deadline, interested parties are advised that, with regard to reviews requested on the basis of anniversary months on or after November 2013, the Department does not intend to extend the 90-day deadline unless the requestor demonstrates that an extraordinary circumstance has prevented it from submitting a timely withdrawal request. Determinations by the Department to extend the 90-day deadline will be made on a case-by-case basis.

The Department is providing this notice on its Web site, as well as in its ''Opportunity To Request Administrative Review'' notices, so that interested parties will be aware of the manner in which the Department intends to exercise its discretion in the future.

*Opportunity to Request a Review:* Not later than the last day of November 2013,[1] interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in November for the following periods:

| | Period of review |
|---|---|
| **Antidumping Duty Proceedings** | |
| BRAZIL: | |
| Circular Welded Non-Alloy Steel Pipe A–351–809 | 11/1/12–10/31/13 |
| Polyethylene Terephthalate (Pet) Film A–351–841 | 11/1/12–10/31/13 |
| GERMANY: Lightweight Thermal Paper A–428–840 | 11/1/12–10/31/13 |
| INDONESIA: Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses A–560–823 | 11/1/12–10/31/13 |
| MEXICO: | |
| Certain Circular Welded Non-Alloy Steel Pipe A–201–805 | 11/1/12–10/31/13 |
| Seamless Refined Copper Pipe and Tube A–201–838 | 11/1/12–10/31/13 |
| REPUBLIC OF KOREA: Certain Circular Welded Non-Alloy Steel Pipe A–580–809 | 11/1/12–10/31/13 |
| TAIWAN: | |
| Certain Hot-Rolled Carbon Steel Flat Products A–583–835 | 11/1/12–10/31/13 |
| Certain Circular Welded Non-Alloy Steel Pipe A–583–814 | 11/1/12–10/31/13 |
| THAILAND: Certain Hot-Rolled Carbon Steel Flat Products A–549–817 | 11/1/12–10/31/13 |
| THE PEOPLE'S REPUBLIC OF CHINA: | |
| Certain Cut-To-Length Carbon Steel Plate A–570–849 | 11/1/12–10/31/13 |
| Certain Hot-Rolled Carbon Steel Flat Products A–570–865 | 11/1/12–10/31/13 |
| Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses A–570–958 | 11/1/12–10/31/13 |
| Diamond Sawblades and Parts Thereof A–570–900 | 11/1/12–10/31/13 |
| Fresh Garlic A–570–831 | 11/1/12–10/31/13 |
| Lightweight Thermal Paper A–570–920 | 11/1/12–10/31/13 |
| Paper Clips A–570–826 | 11/1/12–10/31/13 |
| Polyethylene Terephthalate Film, Sheet and Strip A–570–924 | 11/1/12–10/31/13 |
| Pure Magnesium in Granular Form A–570–864 | 11/1/12–10/31/13 |
| Refined Brown Aluminum Oxide A–570–882 | 11/1/12–10/31/13 |
| Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe A–570–956 | 11/1/12–10/31/13 |
| Seamless Refined Copper Pipe and Tube A–570–964 | 11/1/12–10/31/13 |
| UKRAINE: Certain Hot-Rolled Carbon Steel Flat Products A–823–811 | 11/1/12–10/31/13 |
| UNITED ARAB EMIRATES: Polyethylene Terephthalate Film, Sheet and Strip A–520–803 | 11/1/12–10/31/13 |
| **Countervailing Duty Proceedings** | |
| INDONESIA: Coated Paper Suitable For High-Quality Print Graphics Using Sheet-Fed Presses C–560–824 | 1/1/12–12/31/12 |
| THE PEOPLE'S REPUBLIC OF CHINA: | |
| Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses C–570–959 | 1/1/12–12/31/12 |
| Lightweight Thermal Paper C–570–921 | 1/1/12–12/31/12 |
| Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe C–570–957 | 1/1/12–12/31/12 |
| **Suspension Agreements** | |
| UKRAINE: Certain Cut-To-Length Carbon Steel Plate A–823–808 | 11/1/12–10/31/13 |

In accordance with 19 CFR 351.213(b), an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. For both antidumping and countervailing duty reviews, the interested party must specify the individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order or suspension agreement for which it is requesting a review. In addition, a domestic interested party or an interested party described in section 771(9)(B) of the Act must state why it desires the Secretary to review those particular producers or exporters.[2] If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which were produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis,

[1] Or the next business day, if the deadline falls on a weekend, federal holiday or any other day when the Department is closed.

[2] If the review request involves a non-market economy and the parties subject to the review request do not qualify for separate rates, all other exporters of subject merchandise from the non-market economy country who do not have a separate rate will be covered by the review as part of the single entity of which the named firms are a part.

which exporter(s) the request is intended to cover.

Please note that, for any party the Department was unable to locate in prior segments, the Department will not accept a request for an administrative review of that party absent new information as to the party's location. Moreover, if the interested party who files a request for review is unable to locate the producer or exporter for which it requested the review, the interested party must provide an explanation of the attempts it made to locate the producer or exporter at the same time it files its request for review, in order for the Secretary to determine if the interested party's attempts were reasonable, pursuant to 19 CFR 351.303(f)(3)(ii).

As explained in *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003), and *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011) the Department has clarified its practice with respect to the collection of final antidumping duties on imports of merchandise where intermediate firms are involved. The public should be aware of this clarification in determining whether to request an administrative review of merchandise subject to antidumping findings and orders. *See also* the Enforcement and Compliance Web site at *http://trade.gov/enforcement/.*

All requests must be filed electronically in Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''IA ACCESS'') on the IA ACCESS Web site at *http://iaaccess.trade.gov. See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011). Further, in accordance with 19 CFR 351.303(f)(l)(i), a copy of each request must be served on the petitioner and each exporter or producer specified in the request.

The Department will publish in the **Federal Register** a notice of ''Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation'' for requests received by the last day of November 2013. If the Department does not receive, by the last day of November 2013, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct CBP to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures ''gap'' period of the order, if such a gap period is applicable to the period of review.

This notice is not required by statute but is published as a service to the international trading community.

Dated: October 24, 2013.

**Christian Marsh**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. 2013–26254 Filed 10–31–13; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

### Initiation of Five-Year (''Sunset'') Review

**AGENCY:** Enforcement and Compliance, Formerly Import Administration, International Trade Administration, Department of Commerce.

**SUMMARY:** In accordance with section 751(c) of the Tariff Act of 1930, as amended (''the Act''), the Department of Commerce (''the Department'') is automatically initiating five-year reviews (''Sunset Reviews'') of the antidumping and countervailing duty (''AD/CVD'') 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:* (November 1, 2013).

**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 the Department's Policy Bulletin 98.3—*Policies Regarding the Conduct of Five-Year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders: Policy Bulletin,* 63 FR 18871 (April 16, 1998), and 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 duty orders:

| DOC Case No. | ITC Case No. | Country | Product | Department contact |
|---|---|---|---|---|
| A–570–873 | 731–TA–986 | China | Ferrovanadium (2nd Review) | Charles Riggle, (202) 482–0650. |
| A–570–848 | 731–TA–752 | China | Freshwater Crawfish Tailmeat (3rd Review) | David Goldberger, (202) 482–4136. |
| A–570–928 | 731–TA–1140 | China | Uncovered Innerspring Units (1st Review) | David Goldberger, (202) 482–5047. |
| A–791–815 | 731–TA–987 | South Africa | Ferrovanadium (2nd Review) | Charles Riggle, (202) 482–0650. |
| A–791–821 | 731–TA–1141 | South Africa | Uncovered Innerspring Units (1st Review) | David Goldberger, (202) 482–4136. |
| A–552–803 | 731–TA–1142 | Vietnam | Uncovered Innerspring Units (1st Review) | David Goldberger, (202) 482–4136. |

**Filing Information**

As a courtesy, we are making information related to sunset proceedings, including copies of the pertinent statute and Department's regulations, the Department's schedule for Sunset Reviews, a listing of past revocations and continuations, and current service lists, available to the public on the Department's Web site at the following address: ''*http://enforcement.trade.gov/sunset/.*'' All submissions in these Sunset Reviews must be filed in accordance with the Department's regulations regarding format, translation, and service of documents. These rules, including electronic filing requirements via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (''IA ACCESS''), can be found at 19 CFR 351.303. *See also Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

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. *See* section 782(b) of the Act. 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. *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)). The formats for the revised certifications are provided at the end of the *Final Rule*. The Department intends to reject factual submissions if the submitting party does not comply with the revised certification requirements.

On April 10, 2013, the Department published *Definition of Factual Information and Time Limits for Submission of Factual Information: Final Rule,* 78 FR 21246 (April 10, 2013), which modified two regulations related to antidumping and countervailing duty proceedings: the definition of factual information (19 CFR 351.102(b)(21)), and the time limits for the submission of factual information (19 CFR 351.301). The final rule identifies five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). The final rule requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. The final rule also modified 19 CFR 351.301 so that, rather than providing general time limits, there are specific time limits based on the type of factual information being submitted. These modifications are effective for all segments initiated on or after May 10, 2013.

Please review the final rule, available at *http://enforcement.trade.gov/frn/2013/1304frn/2013-08227.txt,* prior to submitting factual information in this segment. To the extent that other regulations govern the submission of factual information in a segment (such as 19 CFR 351.218), these time limits will continue to be applied.

Pursuant to 19 CFR 351.103(d), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 10 days of the publication of the Notice of Initiation.

Because deadlines in Sunset Reviews can be very short, we urge interested parties to apply for access to proprietary information under administrative protective order (''APO'') immediately following publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The Department's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304–306.

**Information Required From Interested Parties**

Domestic interested parties, as defined in section 771(9)(C), (D), (E), (F), and (G) of the Act and 19 CFR 351.102(b), wishing to participate in a Sunset Review must respond not later than 15 days after the date of publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth at 19 CFR 351.218(d)(1)(ii). In accordance with the Department's regulations, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, the Department will automatically revoke the order without further review. *See* 19 CFR 351.218(d)(1)(iii).

If we receive an order-specific notice of intent to participate from a domestic interested party, the Department's regulations provide that all parties wishing to participate in a Sunset Review must file complete substantive responses not later than 30 days after the date of publication in the **Federal Register** of this notice of initiation. The required contents of a substantive response, on an order-specific basis, are set forth at 19 CFR 351.218(d)(3). Note that certain information requirements differ for respondent and domestic parties. Also, note that the Department's information requirements are distinct from the Commission's information requirements. Please consult the Department's regulations for information regarding the Department's conduct of Sunset Reviews.[1] Please consult the Department's regulations at 19 CFR Part 351 for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at the Department.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218(c).

Dated: October 24, 2013.

**Christian Marsh**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. 2013–26240 Filed 10–31–13; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XC941**

### Fisheries of the South Atlantic; South Atlantic Fishery Management Council; Public Meeting

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and

[1] In comments made on the interim final sunset regulations, a number of parties stated that the proposed five-day period for rebuttals to substantive responses to a notice of initiation was insufficient. This requirement was retained in the final sunset regulations at 19 CFR 351.218(d)(4). As provided in 19 CFR 351.302(b), however, the Department will consider individual requests to extend that five-day deadline based upon a showing of good cause.

Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of a public meeting.

**SUMMARY:** The South Atlantic Fishery Management Council (Council) will hold a meeting of its Snapper Grouper Advisory Panel (AP) in North Charleston, SC. The meeting is open to the public.

**DATES:** The meeting will be held from 9 a.m. until 5:30 p.m. on Tuesday, November 19, 2013 and from 9 a.m. until 5:30 p.m. on Wednesday, November 20, 2013.

**ADDRESSES:** *Meeting address:* The meeting will be held at the Crowne Plaza, 4381 Tanger Outlet Blvd., N. Charleston, SC 29418; telephone: (877) 747–7301.

*Council address:* South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405.

**FOR FURTHER INFORMATION CONTACT:** Kim Iverson, Public Information Officer, South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405; telephone: (843) 571–4366 or toll free (866) SAFMC–10; fax: (843) 769–4520; email: *kim.iverson@safmc.net.*

**SUPPLEMENTARY INFORMATION:** The Snapper Grouper Advisory Panel will receive an update on the status of various amendments to the Snapper Grouper Fishery Management Plan (FMP) and other amendments affecting the snapper grouper fishery. AP members will receive an update on the October 2013 meeting of the Council's Scientific and Statistical Committee (SSC) meeting, including results of the stock assessments for blueline tilefish and snowy grouper. AP members will receive overviews and provide recommendations on the following amendments to the Snapper Grouper FMP: Amendment 22 to establish a recreational harvest tag program for snapper grouper species with low Annual Catch Limits; Amendment 29 to amend the Acceptable Biological Catch (ABC) Control Rule and adjust ABCs for ''Only Reliable Catch Stocks''; Regulatory Amendment 17 to establish marine protected areas to protect speckled hind and warsaw grouper; and Regulatory Amendment 16 to address the annual closure of black sea bass pot gear. The Snapper Grouper AP will also participate in facilitated discussions and provide recommendations on the Council's Visioning and Strategic Planning process for the snapper grouper fishery and address other business as necessary.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during the meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

### Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the council office (see **ADDRESSES**) 3 days prior to the meeting.

**Note:** The times and sequence specified in this agenda are subject to change.

Dated: October 29, 2013.

**Tracey L. Thompson,**

*Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2013–26066 Filed 10–31–13; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XC942**

### South Atlantic Fishery Management Council; Public Hearings

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

**ACTION:** Notice of a public hearing via webinar.

**SUMMARY:** The South Atlantic Fishery Management Council (Council) will hold a public hearing pertaining to Amendment 7 to the Dolphin Wahoo Fishery Management Plan (FMP).

**DATES:** The public hearing will be held via webinar on November 18, 2013 beginning at 6 p.m. Information on how to register for the webinar will be posted to the Council's Web site at *www.safmc.net.*

*Written comments:* Written comments for Dolphin Wahoo Amendment 7 will be accepted November 1–20, 2013. Email comments to: *DWAmend7Comments@safmc.net.* Comments may also be submitted in writing to: Bob Mahood, South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405.

**FOR FURTHER INFORMATION CONTACT:** Kim Iverson, Public Information Officer, SAFMC; telephone: (843) 571–4366 or toll free: (866) SAFMC–10; fax: (843) 769–4520; email: *kim.iverson@safmc.net.*

**SUPPLEMENTARY INFORMATION:** The Council will hold a public hearing via webinar on Amendment 7 to the Dolphin Wahoo FMP. The amendment addresses an action to allow recreational fishermen to bring dolphin (mahi mahi) and wahoo caught in the Bahamas into the U.S. Exclusive Economic Zone (EEZ) as fillets.

Council staff will present an overview of the amendment and be available for questions at the beginning of the hearing. Members of the public will have the opportunity to go on record after the presentation to formally record their comments for consideration by the Council. A summary document for the amendment will be posted to the Council's Web site at *www.safmc.net.*

### Special Accommodations

The hearing is physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the Council office (see **ADDRESSES**) 5 days prior to the meeting.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: October 29, 2013.

**Tracey L. Thompson,**

*Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2013–26067 Filed 10–31–13; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XC940**

### New England Fishery Management Council; Public Meeting

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

**ACTION:** Notice; public meeting.

**SUMMARY:** The New England Fishery Management Council's (Council) Groundfish Oversight Committee will meet to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

**DATES:** The meeting will be held Monday, November 18, 2013 through Tuesday, November 19, 2013. See **SUPPLEMENTARY INFORMATION** for specific times.

**ADDRESSES:** *Meeting address:* The meeting will be held at the Newport Marriott Hotel, 25 America's Cup Ave., Newport, RI; telephone: (401) 849–1000; fax: (401) 849–3422.

*Council address:* New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

**FOR FURTHER INFORMATION CONTACT:** Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

**SUPPLEMENTARY INFORMATION:** The Groundfish Oversight Committee will meet on November 18 and 19, 2013 to discuss issues related to the Northeast Multispecies Fishery Management Plan, the agenda for each day are as follows:

**Monday, November 18, 2013 Beginning at 9:30 a.m.**

The Committee will review Plan Development Team (PDT) work related to the development of Amendment 18; hold a session on the excessive share analysis being conducted by the contractor, Compass Lexecon, and discuss potential measures.

**Tuesday, November 19, 2013 Beginning at 9 a.m.**

The Committee will review PDT work related to the impacts of the alternatives under consideration in Framework 51 and potentially select preferred alternatives. They will discuss other business as necessary on both days.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

**Special Accommodations**

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies (see **ADDRESSES**) at least 5 days prior to the meeting date.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: October 29, 2013.

**Tracey L. Thompson,**

*Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2013–26065 Filed 10–31–13; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XC952**

### New England Fishery Management Council; Public Meeting

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

**ACTION:** Notice of a public meeting.

**SUMMARY:** The New England Fishery Management Council (Council) will hold a one-day meeting on November 20, 2013 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

**DATES:** The meeting will be held on Wednesday, November 20, 2013 beginning at 8:30 a.m.

**ADDRESSES:** The meeting will be held at the Newport Marriott Hotel, 25 America's Cup Avenue, Newport, Rhode Island 02840; Telephone 401–849–1000 or online at *http://www.marriott.com/hotels/travel/pvdlw-newport-marriott/*. Requests for special accommodations should be addressed to the New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950; telephone (978) 465–0492.

**FOR FURTHER INFORMATION CONTACT:** Thomas A. Nies, Executive Director, New England Fishery Management Council, (978) 465–0492.

**SUPPLEMENTARY INFORMATION:**

**Wednesday, November 20, 2013**

The Council will begin its meeting with introductions and announcements followed by reports from the NEFMC Chairman and Executive Director, NOAA Fisheries Regional Administrator, the Northeast Fisheries Science Center and Mid-Atlantic Fishery Management Council liaisons, as well as NOAA General Counsel, and representatives of the Atlantic States Marine Fisheries Commission, U.S. Coast Guard, and NOAA Enforcement. The Council then intends to initiate a framework adjustment to the Fishery Management Plan (FMP) for the Northeast Skate Complex. The action would set fishery specifications for 2014–15 and also remove the unclassified wing fishery VTR code. A discussion postponed from the September Council meeting will be held to consider whether to request a NOAA Fisheries emergency action to ban midwater trawling based on recent concerns about haddock bycatch.

After a noon lunch break, the Council will review and discuss a report and recommendations from its ABC Control Rule Working Group. Specific recommendations from the group will be further considered by the Council during the discussion of 2014 management priorities later in the meeting. There will be an update about Amendment 18 to the Northeast Multispecies FMP, an action under development that addresses fleet diversity, enhances sector management, promotes resilience and stability of fishing businesses and prevents excessive shares in the New England groundfish fishery. The day will conclude with a discussion about and approval of NEFMC management priorities for 2014.

Although other non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subjects of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided that the public has been notified of the Council's intent to take final action to address the emergency.

**Special Accommodations**

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: October 29, 2013.

**Tracey L. Thompson,**

*Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2013–26084 Filed 10–31–13; 8:45 am]

**BILLING CODE 3510–22–P**

## COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

### Procurement List; Additions

**AGENCY:** Committee for Purchase From People Who Are Blind or Severely Disabled.

**ACTION:** Additions to the Procurement List.

**SUMMARY:** This action adds services to the Procurement List that will be provided by nonprofit agencies employing persons who are blind or have other severe disabilities.

**DATES:** *Effective Date:* 12/2/2013.

**ADDRESSES:** Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 10800, Arlington, Virginia 22202–4149.

**FOR FURTHER INFORMATION CONTACT:** Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

**SUPPLEMENTARY INFORMATION:**

## Additions

On 9/13/2013 (78 FR 56680) and 9/20/2013 (78 FR 57844), the Committee for Purchase From People Who Are Blind or Severely Disabled published notices of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the services and impact of the additions on the current or most recent contractors, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

## Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will provide the services to the Government.

2. The action will result in authorizing small entities to provide the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the services proposed for addition to the Procurement List.

## End of Certification

Accordingly, the following services are added to the Procurement List:

### Services

Service Type/Location: Custodial Service, GSA, PBS, Region 2, Department of State/Passport Office, Minillas North Tower, 9th Floor, De Diego Ave. Parada 22, Santurce, PR
NPA: The Corporate Source, Inc., New York, NY
Contracting Activity: GSA/Public Buildings Service, HATO REY, PR

Service Type/Location: Janitorial/Custodial Service, National Oceanic & Atmospheric Administration, National Weather Service Office, Except Communication & Electrical Room, 500 Airport Blvd., #115, Lake Charles, LA.
NPA: Calcasieu Association for Retarded Citizens, Inc., Lake Charles, LA
Contracting Activity: Dept of Commerce, National Oceanic and Atmospheric Administration, Boulder, CO

**Barry S. Lineback,**
*Director, Business Operations.*

[FR Doc. 2013–26046 Filed 10–31–13; 8:45 am]

BILLING CODE 6353–01–P

# COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

## Procurement List; Proposed Deletions

**AGENCY:** Committee for Purchase From People Who Are Blind or Severely Disabled.

**ACTION:** Proposed Deletions from the Procurement List.

**SUMMARY:** The Committee is proposing to delete a product and service previously furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

Comments Must Be Received on or Before: 12/2/2013.

**ADDRESSES:** Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 10800, Arlington, Virginia 22202–4149.

**FOR FURTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT:** Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

**SUPPLEMENTARY INFORMATION:** This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

## Deletions

The following product and service are proposed for deletion from the Procurement List:

### Product

NSN: 7930–01–367–0989—Cleaner, Water Soluble
NPA: Association for the Blind and Visually Impaired—Goodwill Industries of Greater Rochester, Rochester, NY
Contracting Activity: General Services Administration, Fort Worth, TX

### Service

Service Type/Location: Janitorial/Custodial Service, Naval & Marine Corps Reserve Center, Spokane, WA
NPA: Career Connections, Spokane, WA
Contracting Activity: Dept of the Navy, U.S. Fleet Forces Command, Norfolk, VA

**Barry S. Lineback,**
*Director, Business Operations.*

[FR Doc. 2013–26047 Filed 10–31–13; 8:45 am]

BILLING CODE 6353–01–P

# DEPARTMENT OF DEFENSE

## Office of the Secretary

## TRICARE; Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Fiscal Year 2014 Diagnosis Related Group (DRG) Updates

**AGENCY:** Office of the Secretary, DoD.

**ACTION:** Notice of DRG revised rates.

**SUMMARY:** This notice describes the changes made to the TRICARE DRG-based payment system in order to conform to changes made to the Medicare Prospective Payment System (PPS). It also provides the updated fixed loss cost outlier threshold, cost-to-charge ratios, and the data necessary to update the FY 2014 rates.

**DATES:** *Effective Dates:* The rates, weights, and Medicare PPS changes which affect the TRICARE DRG-based payment system contained in this notice are effective for admissions occurring on or after October 1, 2013.

**ADDRESSES:** TRICARE Management Activity (TMA), Medical Benefits and Reimbursement Branch, 16401 East Centretech Parkway, Aurora, CO 80011–9066.

**FOR FURTHER INFORMATION CONTACT:** Amber L. Butterfield, Medical Benefits and Reimbursement Office, TMA, telephone (303) 676–3565.

Questions regarding payment of specific claims under the TRICARE DRG-based payment system should be addressed to the appropriate contractor.

**SUPPLEMENTARY INFORMATION:** The final rule published on September 1, 1987 (52 FR 32992) set forth the basic procedures used under the CHAMPUS DRG-based payment system. This was subsequently amended by final rules published August 31, 1988 (53 FR 33461); October 21, 1988 (53 FR 41331); December 16, 1988 (53 FR 50515); May 30, 1990 (55 FR 21863); October 22, 1990 (55 FR 42560); and September 10, 1998 (63 FR 48439).

An explicit tenet of these final rules, and one based on the statute authorizing the use of DRGs by TRICARE, is that the TRICARE DRG-based payment system is modeled on the Medicare PPS, and that, whenever practicable, the TRICARE system will follow the same rules that

apply to the Medicare PPS. The Centers for Medicare and Medicaid Services (CMS) publishes these changes annually in the **Federal Register** and discusses in detail the impact of the changes.

In addition, this notice updates the rates and weights in accordance with our previous final rules. The actual changes we are making, along with a description of their relationship to the Medicare PPS, are detailed in this notice.

## I. Medicare PPS Changes Which Affect the TRICARE DRG-Based Payment System

Following is a discussion of the changes CMS has made to the Medicare PPS that affect the TRICARE DRG-based payment system.

### *A. DRG Classifications*

Under both the Medicare PPS and the TRICARE DRG-based payment system, cases are classified into the appropriate DRG by a Grouper program. The Grouper classifies each case into a DRG on the basis of the diagnosis and procedure codes and demographic information (that is, sex, age, and discharge status). The Grouper used for the TRICARE DRG-based payment system is the same as the current Medicare Grouper with two modifications. The TRICARE system has replaced Medicare DRG 435 with two age-based DRGs (900 and 901), and has implemented thirty-four (34) neonatal DRGs in place of Medicare DRGs 385 through 390. For admissions occurring on or after October 1, 2001, DRG 435 has been replaced by DRG 523. The TRICARE system has replaced DRG 523 with the two age-based DRGs (900 and 901). For admissions occurring on or after October 1, 1995, the CHAMPUS grouper hierarchy logic was changed so the age split (age <29 days) and assignments to Major Diagnostic Category (MDC) 15 occur before assignment of the pre-MDC DRGs. This resulted in all neonate tracheostomies and organ transplants to be grouped to MDC 15 and not to DRGs 480–483 or 495. For admissions occurring on or after October 1, 1998, the CHAMPUS grouper hierarchy logic was changed to move DRG 103 to the pre-MDC DRGs and to assign patients to pre-MDC DRGs 480, 103, and 495 before assignment to MDC 15 DRGs and the neonatal DRGs. For admissions occurring on or after October 1, 2001, DRGs 512 and 513 were added to the pre-MDC DRGs, between DRGs 480 and 103 in the TRICARE grouper hierarchy logic. For admissions occurring on or after October 1, 2004, DRG 483 was deleted and replaced with DRGs 541 and 542, splitting the assignment of cases on the basis of the performance of a major operating room procedure. The description for DRG 480 was changed to ''Liver Transplant and/or Intestinal Transplant'', and the description for DRG 103 was changed to ''Heart/Heart Lung Transplant or Implant of Heart Assist System''. For FY 2007, CMS implemented classification changes, including surgical hierarchy changes. The TRICARE Grouper incorporated all changes made to the Medicare Grouper, with the exception of the pre-surgical hierarchy changes, which will remain the same as FY 2006. For FY 2008, Medicare implemented their Medicare-Severity DRG (MS–DRG) based payment system. TRICARE, however, continued with the Centers for Medicare and Medicaid Services DRG-based (CMS–DRG) payment system for FY 2008. For FY 2009, the TRICARE/CHAMPUS DRG-based payment system shall be modeled on the MS–DRG system, with the following modifications.

The MS–DRG system consolidated the 43 pediatric CMS DRGs that were defined based on age less than or equal to 17 into the most clinically similar MS–DRGs. In their Inpatient Prospective Payment System final rule for MS–DRGs, Medicare stated for their population these pediatric CMS DRGs contained a very low volume of Medicare patients. At the same time, Medicare encouraged private insurers and other non-Medicare payers to make refinements to MS–DRGs to better suit the needs of the patients they serve. Consequently, TRICARE finds it appropriate to retain the pediatric CMS–DRGs for our population. TRICARE is also retaining the TRICARE-specific DRGs for neonates and substance use.

For FY 09, TRICARE will use the MS–DRG v26.0 pre-MDC hierarchy, with the exception that MDC 15 is applied after DRG 011- 012 and before MDC 24.

For FY 10, there are no additional or deleted DRGs.

For FY 11, the added DRGs and deleted DRGs are the same as those included in CMS' final rule published on August 16, 2010 (75 FR 50041–50677). That is, DRG 009 is deleted; DRGs 014 and 015 are being added.

For FY 12, the added DRGs and deleted DRGs are the same as those included in CMS' Final rule published on August 18, 2011 (76 FR 51475–51846). That is, DRG 015 is deleted; DRGs 016 and 017 are being added.

For FY 2013 there are no new, revised, or deleted DRGs.

For FY 2014 there are no new, revised, or deleted DRGs.

### *B. Wage Index and Medicare Geographic Classification Review Board Guidelines*

TRICARE will continue to use the same wage index amounts used for the Medicare PPS. TRICARE will also duplicate all changes with regard to the wage index for specific hospitals that are redesignated by the Medicare Geographic Classification Review Board. In addition, TRICARE will continue to utilize the out commuting wage index adjustment.

### *C. Revision of the Labor-Related Share of the Wage Index*

TRICARE is adopting CMS' percentage of labor related share of the standardized amount. For wage index values greater than 1.0, the labor related portion of the Adjusted Standardized Amount (ASA) shall equal 69.6 percent. For wage index values less than or equal to 1.0 the labor related portion of the ASA shall continue to equal 62 percent.

### *D. Hospital Market Basket*

TRICARE will update the adjusted standardized amounts according to the final updated hospital market basket used for the Medicare PPS for all hospitals subject to the TRICARE DRG-based payment system according to CMS' August 19, 2013 final rule (78 FR 50495–51040). For FY 2014, the market basket is 2.5 percent. Medicare applied reductions to the market basket in FY 2014; however, these reductions do not apply to the TRICARE Program.

### *E. Outlier Payments*

Since TRICARE does not include capital payments in our DRG-based payments (TRICARE reimburses hospitals for their capital costs as reported annually to the contractor on a pass through basis), we will use the fixed loss cost outlier threshold calculated by CMS for paying cost outliers in the absence of capital prospective payments. For FY 2014, the TRICARE fixed loss cost outlier threshold is based on the sum of the applicable DRG-based payment rate plus any amounts payable for Indirect Medical Education (IDME) plus a fixed dollar amount. Thus, for FY 2014, in order for a case to qualify for cost outlier payments, the costs must exceed the TRICARE DRG base payment rate (wage adjusted) for the DRG plus the IDME payment plus $20,008 (wage adjusted). The marginal cost factor for cost outliers continues to be 80 percent.

An incorrect FY 2013 TRICARE Cost Outlier Threshold of $24,230 was published in the **Federal Register** notice (77 FR 71180–71182). However, the correct FY 2013 TRICARE Cost Outlier

Threshold of $20,075 was published in the TRICARE Reimbursement Manual (TRM) and was effective as of October 1, 2012.

*F. National Operating Standard Cost as a Share of Total Costs*

The FY 2013 TRICARE National Operating Standard Cost as a Share of Total Costs (NOSCASTC) used in calculating the cost outlier threshold is 0.92. TRICARE uses the same methodology as CMS for calculating the NOSCASTC; however, the variables are different because TRICARE uses national cost to charge ratios while CMS uses hospital specific cost to charge ratios.

*G. Indirect Medical Education (IDME) Adjustment*

Passage of the Medical Modernization Act of 2003 modified the formula multipliers to be used in the calculation of IDME adjustment factor. Since the IDME formula used by TRICARE does not include disproportionate share hospitals (DSHs), the variables in the formula are different than Medicare's, however; the percentage reductions that will be applied to Medicare's formula will also be applied to the TRICARE IDME formula. The multiplier for the IDME adjustment factor for TRICARE for FY 2014 is 1.02.

*H. Cost to Charge Ratio*

TRICARE uses a national Medicare cost-to-charge ratio (CCR). For FY 2014, the Medicare CCR used for the TRICARE DRG-based payment system for acute care hospitals and neonates will be 0.2778. This is based on a weighted average of the hospital-specific Medicare CCRs (weighted by the number of Medicare discharges) after excluding hospitals not subject to the TRICARE DRG system (Sole Community Hospitals, Indian Health Service hospitals, and hospitals in Maryland). The Medicare CCR is used to calculate cost outlier payments, except for children's hospitals. The Medicare CCR has been increased by a factor of 1.0065 to include an additional allowance for bad debt. The 1.0065 factor reflects the provisions of the Middle Class Tax Relief and Job Creation Act of 2012. For children's hospital cost outliers, the CCR used is 0.3012.

*I. Updated Rates and Weights*

The updated rates and weights are accessible through the Internet at *http://www.tricare.mil/drgrates.* The implementing regulations for the TRICARE/CHAMPUS DRG-based payment system are in 32 CFR Part 199.

Dated: October 29, 2013.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2013–26108 Filed 10–31–13; 8:45 am]

BILLING CODE 5001–06–P

## DEPARTMENT OF DEFENSE

### Department of the Navy

**[Docket ID: USN–2013–0007]**

### Privacy Act of 1974; System of Records

**AGENCY:** Department of the Navy, DoD.

**ACTION:** Notice to alter a System of Records.

**SUMMARY:** The Department of the Navy proposes to alter a system of records in its inventory of record systems subject to the Privacy Act of 1974, as amended. This notice proposes to alter N01080–2, Officer Master File Automated Systems.

**DATES:** This proposed action will be effective on December 2, 2013 unless comments are received which result in a contrary determination. Comments will be accepted on or before December 2, 2013.

**ADDRESSES:** You may submit comments, identified by docket number and title, by any of the following methods:

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

* *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, 2nd Floor, Suite 02G09, Alexandria, VA 22350–3100.

*Instructions:* All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** Ms. Robin Patterson, Head, PA/FOIA Office (DNS–36), Department of the Navy, 2000 Navy Pentagon, Washington, DC 20350–2000, or by phone at (202) 685–6545.

**SUPPLEMENTARY INFORMATION:** The Department of the Navy's notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT**. The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on March 18, 2013, to the House Committee on Oversight and Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: October 29, 2013.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

**N01080–2**

**SYSTEM NAME:**

Officer Master File Automated Systems (September 21, 2006, 71 FR 55172).

**CHANGES:**

* * * * *

**SYSTEM LOCATION:**

Delete entry and replace with ''Defense Information Systems Agency (DISA), 5450 Carlisle Pike, Mechanicsburg, PA 17050–0975.''

* * * * *

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Delete entry and replace with ''System contains personnel data to support officer assignment, planning, programming, accounting, promotions, career development, and procurement, including: Name, Social Security Number (SSN), rank, status, education, training, security clearance, qualifications, assignments, performance, service, rotation and retirement dates, marital status, and number of dependants. The system also contains Activity Personnel Diaries, personnel accounting documents, Reserve Unit Drill reports, and other personnel transaction documents necessary to maintain file accuracy and currency.''

* * * * *

**STORAGE:**

Delete entry and replace with ''Paper and electronic storage media.''

* * * * *

**RETENTION AND DISPOSAL:**

Delete entry and replace with ''Records are maintained in accordance with the Department of the Navy Records Management Program, Records Management Manual, SECNAV M–5210.1, January 2012, SSIC 1080, due to the large volume they are available at

*http://doni.daps.dla.mil/SECNAV%20Manuals1/5210.1.pdf* or from the system manager.''

**SYSTEM MANAGER(S) AND ADDRESS:**

Delete entry and replace with ''Commander, Navy Personnel Command (PERS–33), 5720 Integrity Drive, Millington, TN 38055–3300.''

**NOTIFICATION PROCEDURE:**

Delete entry and replace with ''Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Commander, Navy Personnel Command (PERS–33), 5720 Integrity Drive, Millington, TN 38055–3300.

Written request should contain full name, Social Security Number (SSN), rank, status, and signature of requester. The system manager may require an original signature or a notarized signature as a means of proving the identity of the individual requesting access to the records.''

**RECORD ACCESS PROCEDURES:**

Delete entry and replace with ''Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Commander, Navy Personnel Command (PERS–33), 5720 Integrity Drive, Millington, TN 38055–3300.

Written request should contain full name, Social Security Number (SSN), rank, status, and signature of requester. The system manager may require an original signature or a notarized signature as a means of proving the identity of the individual requesting access to the records.''

* * * * *

[FR Doc. 2013–26120 Filed 10–31–13; 8:45 am]

BILLING CODE 5001–06–P

## DEPARTMENT OF EDUCATION

**[Docket No. ED–2013–ICCD–0101]**

### Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Credit Enhancement for Charter School Facilities Program Performance Report

**AGENCY:** Office of Innovation and Improvement (OII), Department of Education (ED).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection.

**DATES:** Interested persons are invited to submit comments on or before December 2, 2013.

**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–2013–ICCD–0101 or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* 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, Room 2E115, Washington, DC 20202–4537.

**FOR FURTHER INFORMATION CONTACT:** For questions related to collection activities or burden, please call Tomakie Washington, 202–401–1097 or electronically mail *ICDocketMgr@ed.gov*. Please do not send comments here.

**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:* Credit Enhancement for Charter School Facilities Program Performance Report.

*OMB Control Number:* 1855–0010.

*Type of Review:* Extension without change of an existing collection of information.

*Respondents/Affected Public:* State, Local, or Tribal Governments.

*Total Estimated Number of Annual Responses:* 34.

*Total Estimated Number of Annual Burden Hours:* 850.

*Abstract:* The Credit Enhancement for Charter School Facilities Program and its virtually identical antecedent program, the Charter Schools Facilities Financing Demonstration Program, authorized as part of the reauthorization of the Elementary and Secondary Education Act, to have a statutory mandate for an annual report (respectively, Section 5227 and Section 10227). This reporting is a requirement in order to obtain or retain benefits according to section 5527 part b of the Elementary and Secondary Education Act of 1965. ED will use the information through this report to monitor and evaluate competitive grants. These grants are made to private, non-profits; governmental entities; and consortia of these organizations. These organizations will use the funds to leverage private capital to help charter schools construct, acquire, and renovate school facilities.

Dated: October 29, 2013.

**Tomakie Washington,**

*Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.*

[FR Doc. 2013–26113 Filed 10–31–13; 8:45 am]

BILLING CODE 4000–01–P

## DEPARTMENT OF EDUCATION

### Implementation of Title I/II Program Initiatives; Extension of Public Comment Period; Correction

**AGENCY:** Department of Education.

**ACTION:** Correction notice.

**SUMMARY:** On October 1, 2013, the U.S. Department of Education published a 30-day comment period notice in the **Federal Register** (Page 60266) seeking public comment for an information collection entitled, ''Implementation of Title I/II Program Initiatives,'' Docket ID ED–2013–ICCD–0090. The comment period for this information collection request has been extended to November 8, 2013.

The Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management

Services, Office of Management, hereby issues a correction notice as required by the Paperwork Reduction Act of 1995.

Dated: October 29, 2013.

**Tomakie Washington,**

*Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.*

[FR Doc. 2013–26111 Filed 10–31–13; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF EDUCATION

**[Docket No. ED–2013–ICCD–0100]**

### Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; National Professional Development Program: Grantee Performance Report

**AGENCY:** Office of English Language Acquisition (OELA), Department of Education (ED).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection.

**DATES:** Interested persons are invited to submit comments on or before December 2, 2013.

**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–2013–ICCD–0100 or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* 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, Room 2E115, Washington, DC 20202–4537.

**FOR FURTHER INFORMATION CONTACT:** For questions related to collection activities or burden, please call Tomakie Washington, 202–401–1097 or electronically mail *ICDocketMgr@ed.gov.* Please do not send comments here.

**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:* National Professional Development Program: Grantee Performance Report.

*OMB Control Number:* 1885–0555.

*Type of Review:* Extension without change of an existing collection of information.

*Respondents/Affected Public:* State, Local, or Tribal Governments.

*Total Estimated Number of Annual Responses:* 138.

*Total Estimated Number of Annual Burden Hours:* 6,900.

*Abstract:* The National Professional Development (NPD) program provides professional development activities intended to improve instruction for students with limited English proficiency and assists education personnel working with such children to meet high professional standards. The NPD program office is submitting this application to request approval to collect information from NPD grantees. This data collection serves two purposes; the data are necessary to assess the performance of the NPD program on Government Performance Results Act measures, also, budget information and data on project-specific performance measures are collected from NPD grantees for project-monitoring information.

Dated: October 29, 2013.

**Tomakie Washington,**

*Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.*

[FR Doc. 2013–26112 Filed 10–31–13; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF ENERGY

**[OE Docket No. PP–362]**

### Notice of Availability for the Draft Environmental Impact Statement and Announcement of Public Hearings for the Proposed Champlain Hudson Power Express Transmission Line Project

**AGENCY:** U.S. Department of Energy.

**ACTION:** Notice of availability and public hearings.

**SUMMARY:** The U.S. Department of Energy (DOE) announces the availability of the ''*Draft Environmental Impact Statement for the Champlain Hudson Power Express Transmission Line Project''* (DOE/EIS–0447) for public review and comment. DOE is also announcing four public hearings to receive comments on the Draft EIS. The Draft EIS evaluates the environmental impacts of DOE's proposed Federal action of issuing a Presidential permit to the Applicant, Champlain Hudson Power Express, Inc. (CHPEI), to construct, operate, maintain, and connect a new electric transmission line across the U.S./Canada border in northeastern New York State.

**DATES:** DOE invites interested Members of Congress, state and local governments, other Federal agencies, American Indian tribal governments, organizations, and members of the public to provide comments on the Draft EIS during the 45-day public comment period. The public comment period started on October 11, 2013, with the publication in the **Federal Register** by the U.S. Environmental Protection Agency of its Notice of Availability of the Draft EIS, and will continue until November 25, 2013. Written and oral comments will be given equal weight and all comments received or postmarked by that date will be considered by DOE in preparing the Final EIS. Comments received or postmarked after that date will be considered to the extent practicable.

Locations, dates, and start time for the public hearings are listed in the **SUPPLEMENTARY INFORMATION** section of this Notice of Availability (NOA).

**ADDRESSES:** Requests to provide oral comments at the public hearings may be made at the time of the hearing(s).

Written comments on the Draft EIS may be provided on the CHPE EIS Web site at *http://www.chpexpresseis.org* (preferred) or addressed to Mr. Brian Mills: Office of Electricity Delivery and Energy Reliability (OE–20), U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585; via email to *Brian.Mills@hq.doe.gov;* or by facsimile to (202) 586–8008. Please mark envelopes and email subject lines as ''CHPE Draft EIS Comments.''

The locations, dates, and starting times of the public hearings are listed in the table below:

| Location | Date and time | Address |
|---|---|---|
| Courtyard Marriott LaGuardia (Queens) | Monday, November 18, 2013, 12:00 p.m | 9010 Ditmars Blvd. East Elmhurst, NY 11369. |
| Stony Point Center | Monday, November 18, 2013, 6:00 p.m | 17 Cricketown Rd. Stony Point, NY 10980. |
| Holiday Inn Schenectady | Tuesday, November 19, 2013, 6:00 p.m | 100 Nott Terrace Schenectady, NY 12308. |
| West Side Ballroom (Plattsburgh) | Wednesday, November 20, 2013, 6:00 p.m | 253 New York Rd. Plattsburgh, NY 12903. |

**FOR FURTHER INFORMATION CONTACT:** Mr. Brian Mills at the addresses above, or at 202–586–8267.

**SUPPLEMENTARY INFORMATION:** The public hearings will consist of the formal taking of comments with transcription by a court stenographer. The hearings will provide interested parties the opportunity to make comments for consideration in the preparation of the Final EIS.

*Availability of the Draft EIS* Copies of the Draft EIS have been distributed to appropriate members of Congress, state and local government officials, American Indian tribal governments, and other Federal agencies, groups, and interested parties. Printed copies of the document may be obtained by contacting Mr. Mills at the above address. Copies of the Draft EIS and supporting documents are also available for inspection at the following locations:

- Queens Library—Steinway, 21–45 31 Street (Ditmars Boulevard), Long Island City, NY 11102
- Yonkers Public Library—Riverfront Library, 1 Larkin Center, Yonkers, New York 10701
- Rose Memorial Library, 79 East Main Street, Stony Point, NY 10980
- Kingston Public Library, 55 Franklin Street, Kingston, NY 12401
- Schenectady County Public Library, 99 Clinton Street, Schenectady, NY 12305
- Crandall Public Library, 251 Glen Street, Glens Falls, NY 12801
- Plattsburgh Public Library, 19 Oak Street, Plattsburgh, NY 12901

The Draft EIS is also available on the EIS Web site at *http://chpexpresseis.org* and on the DOE NEPA Web site at *http://nepa.energy.gov/.*

Issued in Washington, DC, on October 28, 2013.

**Patricia A. Hoffman,**

*Principal Deputy Assistant Secretary, Office of Electricity Delivery and Energy Reliability.*

[FR Doc. 2013–26080 Filed 10–31–13; 8:45 am]

BILLING CODE 6450–01–P

## DEPARTMENT OF ENERGY

### Office of Energy Efficiency and Renewable Energy

**[Case No. RF–032]**

### Decision and Order Granting a Waiver to Samsung From the Department of Energy Residential Refrigerator and Refrigerator-Freezer Test Procedures

**AGENCY:** Office of Energy Efficiency and Renewable Energy, Department of Energy.

**ACTION:** Decision and Order.

**SUMMARY:** The U.S. Department of Energy (DOE) gives notice of its decision and order in Case No. RF–032 that grants to Samsung Electronics America, Inc. (Samsung) a waiver from the DOE electric refrigerator and refrigerator-freezer test procedures for specific basic models set forth in its petition for waiver. In its petition, Samsung provides an alternate test procedure that is identical to the test procedure DOE published in a final rule dated January 25, 2012 (77 FR 3559) that manufacturers will be required to use starting in 2014. Under today's decision and order, Samsung shall be required to test and rate these refrigerator-freezers using an alternate test procedure as adopted in that January 2012 final rule, which accounts for multiple defrost cycles when measuring energy consumption.

**DATES:** This Decision and Order is effective November 1, 2013.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Bryan Berringer, U.S. Department of Energy, Building Technologies Office, Mailstop EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–0371, Email: *Bryan.Berringer@ee.doe.gov*

Mr. Michael Kido, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC–71, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585–0103. Telephone: (202) 586–8145. Email: *Michael.Kido@hq.doe.gov*

**SUPPLEMENTARY INFORMATION:** In accordance with Title 10 of the Code of Federal Regulations (10 CFR 430.27(l)), DOE gives notice of the issuance of its decision and order as set forth below. The decision and order grants Samsung with a waiver from the applicable residential refrigerator and refrigerator-freezer test procedures in 10 CFR part 430, subpart B, appendix A1 for certain basic models of refrigerator-freezers with multiple defrost cycles, provided that Samsung tests and rates such products using the alternate test procedure described in this notice. Today's decision prohibits Samsung from making representations concerning the energy efficiency of these products unless the product has been tested in a manner consistent with the provisions and restrictions in the alternate test procedure set forth in the decision and order below, and the representations fairly disclose the test results.

Distributors, retailers, and private labelers are held to the same standard when making representations regarding the energy efficiency of these products. 42 U.S.C. 6293(c).

Issued in Washington, DC, on October 28, 2013.

**Kathleen B. Hogan,**

*Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.*

## Decision and Order

*In the Matter of:* Samsung Electronics America, Inc. (Case No. RF–032)

### *I. Background and Authority*

Title III, Part B of the Energy Policy and Conservation Act of 1975 (EPCA), Public Law 94–163 (42 U.S.C. 6291–6309, as codified) established the Energy Conservation Program for Consumer Products Other Than Automobiles, a program covering most major household appliances, which includes the residential electric refrigerators and refrigerator-freezers that are the focus of this notice.[1] Part B includes definitions, test procedures, labeling provisions, energy conservation standards, and the authority to require information and reports from manufacturers. Further, Part B authorizes the Secretary of Energy to prescribe test procedures that are reasonably designed to produce results which measure energy efficiency, energy use, or estimated operating costs, and that are not unduly burdensome to conduct. (42 U.S.C. 6293(b)(3)) The test procedure for residential electric refrigerators and refrigerator-freezers is set forth in 10 CFR part 430, subpart B, appendix A1.

DOE's regulations for covered products contain provisions allowing a person to seek a waiver from the test procedure requirements for a particular basic model for covered consumer products when (1) the petitioner's basic model for which the petition for waiver was submitted contains one or more design characteristics that prevent testing according to the prescribed test procedure, or (2) when prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data. 10 CFR 430.27(a)(1). Petitioners must include in their petition any alternate test procedures known to the petitioner to evaluate the basic model in a manner representative of its energy consumption characteristics.

The Assistant Secretary for Energy Efficiency and Renewable Energy (the Assistant Secretary) may grant a waiver subject to conditions, including adherence to alternate test procedures. 10 CFR 430.27(l). Waivers remain in effect pursuant to the provisions of 10 CFR 430.27(m).

Any interested person who has submitted a petition for waiver may also file an application for interim waiver of the applicable test procedure requirements. 10 CFR 430.27(a)(2). The Assistant Secretary will grant an interim waiver request if it is determined that the applicant will experience economic hardship if the interim waiver is denied, if it appears likely that the petition for waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the petition for waiver. 10 CFR 430.27(g).

### *II. Samsung's Petition for Waiver: Assertions and Determinations*

On August 2, 2013, Samsung submitted a petition for waiver from the test procedure applicable to residential electric refrigerators and refrigerator-freezers set forth in 10 CFR part 430, subpart B, appendix A1. Samsung is designing new refrigerator-freezers that incorporate multiple defrost cycles. In its petition, Samsung seeks a waiver from the existing DOE test procedure applicable to refrigerators and refrigerator-freezers under 10 CFR part 430 because the existing test procedure does not account for multiple defrost cycles. Therefore, Samsung has asked to use an alternate test procedure that is the same as the one manufacturers will be required to use in 2014 for products with long time or variable defrost. See 77 FR 3559 (Jan. 25, 2012) (final rule). On January 27, 2011; July 19, 2011; December 14, 2011; December 11, 2012; and February 5, 2013, Samsung had submitted similar petitions for waiver and requests for interim waiver for other basic models of refrigerator-freezers that incorporate multiple defrost cycles. DOE subsequently granted a waiver for the products specified in these petitions. 77 FR 1474 (Jan. 10, 2012), 77 FR 75428 (Dec. 20, 2012), June 14, 2013 (78 FR 35901), and 78 FR 35898 (June 14, 2013).

Samsung's petition included an alternate test procedure to account for the energy consumption of its refrigerator-freezer models with multiple defrost cycles. The alternate test procedure specified by Samsung is the same as the test procedure that DOE finalized in January 2012. See 77 FR 3359. Among other things, the notice to that final rule addressed comments received on the Samsung petitions that were the subject of the previous waiver, as well as the interim final rule that had previously been issued. See 75 FR 78810 (Dec. 16, 2010). The alternate test procedure that Samsung has requested permission to use as part of its waiver petition is, as with its prior waiver petitions noted above, identical to the test procedure provisions for products with long time or variable defrost DOE adopted in the final test procedure rule that manufacturers will be required to use starting in 2014.

Because the currently applicable test procedure cannot be used to test the basic models at issue or would otherwise lead to materially inaccurate results, DOE previously granted a waiver to Samsung for other basic models incorporating multiple defrost technology. See 77 FR 1474, 77 FR 75428, 78 FR 35901, and 78 FR 35898. DOE has determined that it is desirable to have similar basic models, such as those addressed by the Samsung petition addressed in this notice, tested in a consistent manner and is adopting the same approach laid out in its prior decision by permitting Samsung to use the alternate test procedure specified in this Decision and Order.

### *III. Consultations With Other Agencies*

DOE consulted with the Federal Trade Commission (FTC) staff concerning the Samsung petition for waiver. The FTC staff did not have any objections to granting a waiver to Samsung.

### *IV. Conclusion*

After careful consideration of all the material that was submitted by Samsung and consultation with the FTC staff, it is ordered that:

(1) The petitions for waiver submitted by the Samsung Electronics America, Inc. (Case No. RF–032) are hereby granted as set forth in the paragraphs below.

(2) Samsung shall be required to test and rate the following Samsung models according to the alternate test procedure set forth in paragraph (3) of this section.

RF28HM*LB**
RF28HM*DB**
RF28HF*DT**
RF28HF*DB**
RF23HC*DT**
RF23HC*DB**
RF25HM*DB**

(3) Samsung shall be required to test the products listed in paragraph (2) of this section according to appendix A1 to subpart B of 10 CFR part 430 except that the test cycle shall be identical to the test procedure provisions for products with long-time or variable defrost located in section 4.2.1 of appendix A to subpart B of 10 CFR part 430, as adopted in DOE's final rule dated January 25, 2012 (77 FR 3559).

[1] For editorial reasons, upon codification in the U.S. Code, Part B was re-designated Part A.

(4) Representations. Samsung may make representations about the energy use of its refrigerator-freezer products for compliance, marketing, or other purposes only to the extent that such products have been tested in accordance with the provisions outlined above and such representations fairly disclose the results of such testing.

(5) This waiver shall remain in effect consistent with the provisions of 10 CFR 430.27(m).

(6) This waiver is issued on the condition that the statements, representations, and documentary materials provided by the petitioner are valid. DOE may revoke or modify this waiver at any time if it determines the factual basis underlying the petition for waiver is incorrect, or the results from the alternate test procedure are unrepresentative of the basic models' true energy consumption characteristics.

(7) This waiver applies only to those basic models set out in Samsung's August 2, 2013 petition for waiver. Grant of this waiver does not release a petitioner from the certification requirements set forth at 10 CFR part 429.

Issued in Washington, DC, on October 28, 2013.

**Kathleen B. Hogan,**

*Deputy Assistant Secretary for Energy Efficiency Energy Efficiency and Renewable Energy.*

[FR Doc. 2013–26088 Filed 10–31–13; 8:45 am]

BILLING CODE 6450–01–P

## DEPARTMENT OF ENERGY

### Office of Energy Efficiency and Renewable Energy

**[Case No. RF–034]**

### Notice of Petition for Waiver of Samsung Electronics America, Inc. From the Department of Energy Residential Refrigerator and Refrigerator-Freezer Test Procedure, and Grant of Interim Waiver

**AGENCY:** Office of Energy Efficiency and Renewable Energy, Department of Energy.

**ACTION:** Notice of petition for waiver, notice of grant of interim waiver, and request for comments.

**SUMMARY:** This notice announces receipt of a petition for waiver from Samsung Electronics America, Inc. (Samsung) regarding specified portions of the U.S. Department of Energy (DOE) test procedure for determining the energy consumption of electric refrigerators and refrigerator-freezers. In its petition, Samsung provides an alternate test procedure that is the same as the test procedure DOE published in a final rule setting out testing requirements for manufacturers to follow starting in 2014. DOE solicits comments, data, and information concerning Samsung's petition and the suggested alternate test procedure. Today's notice also grants Samsung an interim waiver from the electric refrigerator and refrigerator-freezer test procedure, subject to use of the alternative test procedure set forth in this notice.

**DATES:** DOE will accept comments, data, and information with respect to the Samsung Petition until December 2, 2013.

**ADDRESSES:** You may submit comments, identified by case number ''RF–034,'' by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: AS_Waiver_Requests@ee.doe.gov.* Include the case number (Case No. RF–034) in the subject line of the message.
- *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J/1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–2945. Please submit one signed original paper copy.
- *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 950 L'Enfant Plaza SW., Suite 600, Washington, DC 20024. Please submit one signed original paper copy.

*Docket:* For access to the docket to review the background documents relevant to this matter, you may visit the U.S. Department of Energy, 950 L'Enfant Plaza SW., Washington, DC 20024; (202) 586–2945, between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays. Available documents include the following items: (1) This notice; (2) public comments received; (3) the petition for waiver and application for interim waiver; and (4) prior DOE waivers and rulemakings regarding similar refrigerator-freezer products. Please call Ms. Brenda Edwards at the above telephone number for additional information.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Bryan Berringer, U.S. Department of Energy, Building Technologies Program, Mail Stop EE–2J, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–0371. Email: *Bryan.Berringer@ee.doe.gov.*

Mr. Michael Kido, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC–71, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585–0103. Telephone: (202) 586–8145. Email: *Michael.Kido@hq.doe.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. Background and Authority

Title III, Part B of the Energy Policy and Conservation Act of 1975 (EPCA), Public Law 94–163 (42 U.S.C. 6291–6309, as codified), established the Energy Conservation Program for Consumer Products Other Than Automobiles, a program covering most major household appliances, which includes the electric refrigerators and refrigerator-freezers that are the focus of this notice.[1] Part B includes definitions, test procedures, labeling provisions, energy conservation standards, and the authority to require information and reports from manufacturers. Further, Part B authorizes the Secretary of Energy to prescribe test procedures that are reasonably designed to produce results which measure the energy efficiency, energy use, or estimated annual operating costs of a covered product, and that are not unduly burdensome to conduct. (42 U.S.C. 6293(b)(3)) The test procedure for electric refrigerators and refrigerator-freezers is contained in 10 CFR part 430, subpart B, appendix A1.

The regulations set forth in 10 CFR part 430.27 contain provisions that enable a person to seek a waiver from the test procedure requirements for covered products. The Assistant Secretary for Energy Efficiency and Renewable Energy (the Assistant Secretary) will grant a waiver if it is determined that the basic model for which the petition for waiver was submitted contains one or more design characteristics that prevents testing of the basic model according to the prescribed test procedures, or if the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data. 10 CFR 430.27(l). Petitioners must include in their petition any alternate test procedures known to the petitioner to evaluate the basic model in a manner representative of its energy consumption. The Assistant Secretary may grant the waiver subject to conditions, including adherence to alternate test procedures. 10 CFR 430.27(l). Waivers remain in effect pursuant to the provisions of 10 CFR 430.27(m).

[1] For editorial reasons, upon codification in the U.S. Code, Part B was re-designated Part A.

The waiver process also allows the Assistant Secretary to grant an interim waiver from test procedure requirements to manufacturers that have petitioned DOE for a waiver of such prescribed test procedures. 10 CFR 430.27(g). An interim waiver remains in effect for 180 days or until DOE issues its determination on the petition for waiver, whichever occurs earlier. DOE may extend an interim waiver for an additional 180 days. 10 CFR 430.27(h).

**II. Petition for Waiver of Test Procedure and Application for Interim Waiver**

On September 23, 2013, Samsung submitted a petition for waiver from the test procedure applicable to residential electric refrigerators and refrigerator-freezers set forth in 10 CFR part 430, subpart B, appendix A1. Samsung is designing new refrigerator-freezers that incorporate multiple defrost cycles. In its petition, Samsung seeks a waiver from the existing DOE test procedure applicable to refrigerators and refrigerator-freezers under 10 CFR part 430 because the existing test procedure does not account for multiple defrost cycles. Therefore, Samsung has asked to use an alternate test procedure that is the same as the test procedure provisions for products with long time or variable defrost DOE published in a final rule (77 FR 3559, 3564–3565, January 25, 2012). These provisions were placed in appendix A, which is not required for use until September 15, 2014, and not contained in the current appendix A1 test procedure. Samsung has previously submitted similar petitions for waiver and requests for interim waiver for other basic models of refrigerator-freezers that incorporate multiple defrost cycles. DOE subsequently granted Samsung's waiver requests in each case. See 77 FR 1474 (Jan. 10, 2012), 77 FR 75428 (Dec. 20, 2012), 78 FR 35901 (June 14, 2013), and 78 FR 35898 (June 14, 2013).

Samsung also requests an interim waiver from the existing DOE test procedure. An interim waiver may be granted if it is determined that the applicant will experience economic hardship if the application for interim waiver is denied, if it appears likely that the petition for waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination of the petition for waiver. 10 CFR 430.27(g).

DOE has determined that Samsung's application for interim waiver does not provide sufficient market, equipment price, shipments and other manufacturer impact information to permit DOE to evaluate the economic hardship Samsung might experience absent a favorable determination on its application for interim waiver. DOE has determined, however, that it is likely Samsung's petition will be granted, and that it is desirable for public policy reasons to grant Samsung relief pending a determination on the petition. Previously, DOE granted a waiver to Samsung for other basic models incorporating multiple defrost technology and DOE has determined that it is desirable to have similar basic models tested in a consistent manner. See 77 FR 1474 (Jan. 10, 2012); 77 FR 75428 (Dec. 20, 2012); 78 FR 35901 (June 14, 2013); and 78 FR 35898 (June 14, 2013).

Samsung's petition included an alternate test procedure to account for the energy consumption of its refrigerator-freezer models with multiple defrost cycles. The alternate test procedure specified by Samsung is the same as the test procedure published in the final rule referenced above. The alternate test procedure specified in this interim waiver (as well as the previous waiver granted to Samsung) is identical to the test procedure provisions for products with long time or variable defrost adopted in the final test procedure rule that manufacturers of these products are required to use in 2014.

For the reasons stated above, DOE grants Samsung's application for interim waiver from testing of its refrigerator-freezer product line containing multiple defrost cycles. Therefore, *it is ordered that:*

The application for interim waiver filed by Samsung is hereby granted for the specified Samsung refrigerator-freezer basic model that incorporates multiple defrost cycles, subject to the specifications and conditions below. Samsung shall be required to test and rate the specified refrigerator-freezer product according to the alternate test procedure as set forth in section III, ''Alternate Test Procedure.''

The interim waiver applies to the following basic model:

RS22HD*PN**

DOE makes decisions on waivers and interim waivers for only this model specifically set out in the petition, not future models that may be manufactured by the petitioner. Samsung may submit a subsequent petition for waiver and request for grant of interim waiver, as appropriate, for additional models of refrigerator-freezers for which it seeks a waiver from the DOE test procedure. In addition, DOE notes that grant of an interim waiver or waiver does not release a petitioner from the certification requirements set forth at 10 CFR part 429.

Further, this interim waiver is conditioned upon the presumed validity of statements, representations, and documents provided by the petitioner. DOE may revoke or modify this interim waiver at any time upon a determination that the factual basis underlying the petition for waiver is incorrect, or upon a determination that the results from the alternate test procedure are unrepresentative of the basic models' true energy consumption characteristics.

**III. Alternate Test Procedure**

EPCA requires that manufacturers use DOE test procedures to make representations about the energy consumption and energy consumption costs of products covered by the statute. (42 U.S.C. 6293(c)) Consistent representations are important for manufacturers to use in making representations about the energy efficiency of their products and to demonstrate compliance with applicable DOE energy conservation standards. Pursuant to its regulations applicable to waivers and interim waivers from applicable test procedures at 10 CFR 430.27, DOE will consider setting an alternate test procedure for Samsung in a subsequent Decision and Order.

During the period of the interim waiver granted in this notice, Samsung shall test the products listed above according to the test procedures for residential electric refrigerator-freezers prescribed by DOE at 10 CFR part 430, subpart B, appendix A1, except that, for the Samsung products listed above only, Samsung shall include the following:

1. In section 1, Definitions, the following definition:

''Defrost cycle type'' means a distinct sequence of control whose function is to remove frost and/or ice from a refrigerated surface. There may be variations in the defrost control sequence such as the number of defrost heaters energized. Each such variation establishes a separate distinct defrost cycle type. However, defrost achieved regularly during the compressor ''off'' cycles by warming of the evaporator without active heat addition is not a defrost cycle type.

2. In section 4, Test Period, the following:

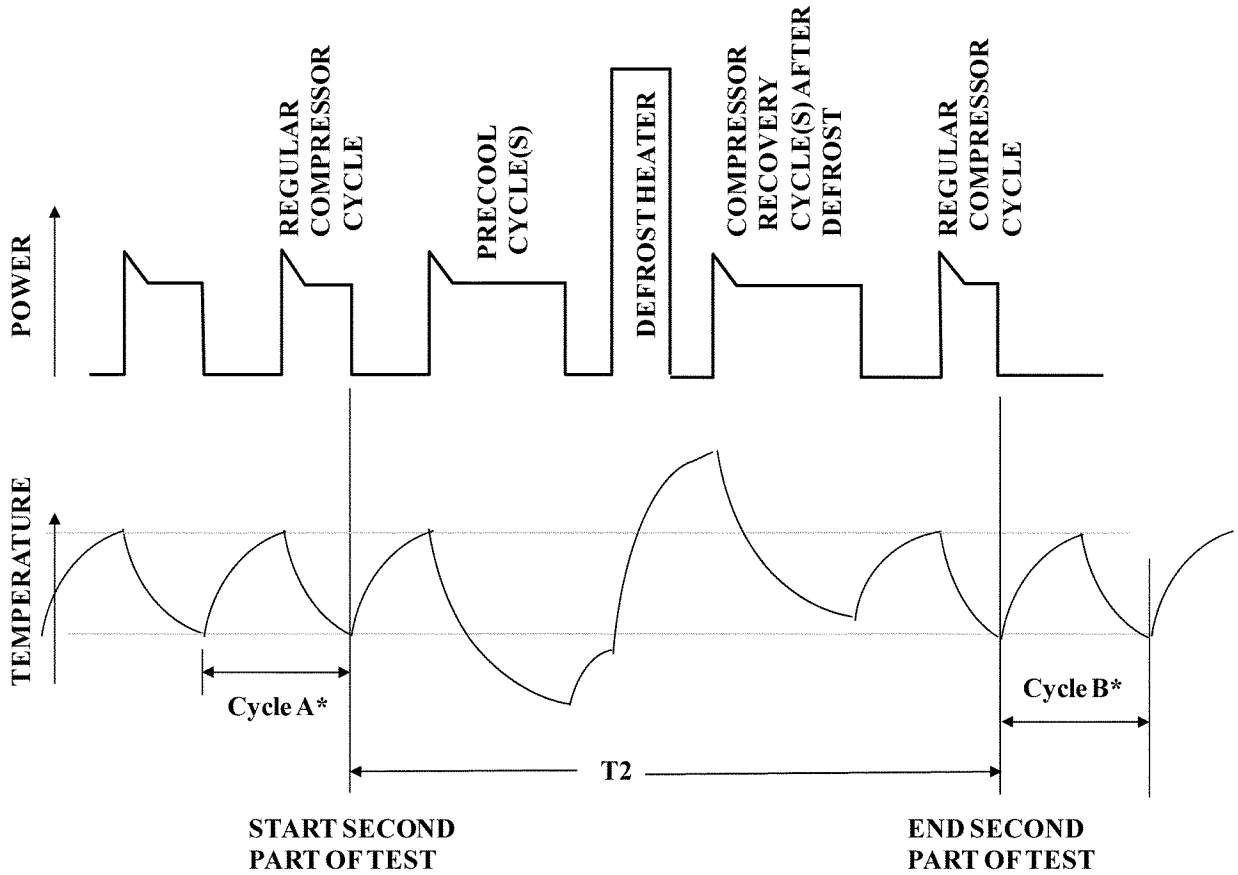
4.2.1 Long-Time Automatic Defrost. If the model being tested has a long-time automatic defrost system, the two-part test described in this section may be used. The first part is a stable period of compressor operation that includes no

portions of the defrost cycle, such as precooling or recovery, that is otherwise the same as the test for a unit having no defrost provisions (section 4.1). The second part is designed to capture the energy consumed during all of the events occurring with the defrost control sequence that are outside of stable operation.

4.2.1.1 Cycling Compressor System. For a system with a cycling compressor, the second part of the test starts at the termination of the last regular compressor ''on'' cycle. The average temperatures of the fresh food and freezer compartments measured from the termination of the previous compressor ''on'' cycle to the termination of the last regular compressor ''on'' cycle must both be within 0.5 °F (0.3 °C) of their average temperatures measured for the first part of the test. If any compressor cycles occur prior to the defrost heater being energized that cause the average temperature in either compartment to deviate from its average temperature for the first part of the test by more than 0.5 °F (0.3 °C), these compressor cycles are not considered regular compressor cycles and must be included in the second part of the test. As an example, a ''precooling'' cycle, which is an extended compressor cycle that lowers the temperature(s) of one or both compartments prior to energizing the defrost heater, must be included in the second part of the test. The test period for the second part of the test ends at the termination of the first regular compressor ''on'' cycle after both compartment temperatures have fully recovered to their stable conditions. The average temperatures of the compartments measured from this termination of the first regular compressor ''on'' cycle until the termination of the next regular compressor ''on'' cycle must both be within 0.5 °F (0.3 °C) of their average temperatures measured for the first part of the test. See Figure 1.

Figure 1

Long-time Automatic Defrost Diagram for Cycling Compressors




***Average compartment temperature(s) during cycles A & B must be within 0.5 °F of the average temperature(s) for the first part of the test.**

4.2.4 Systems with Multiple Defrost Frequencies. This section applies to models with long-time automatic or variable defrost control with multiple defrost cycle types, such as models with single compressors and multiple evaporators in which the evaporators have different defrost frequencies. The two-part method in 4.2.1 shall be used. The second part of the method will be conducted separately for each distinct defrost cycle type.

3. In section 5, Test Measurements, the following:

5.2.1.5 Long-Time or Variable Defrost Control for Systems With Multiple Defrost Cycle Types. The energy consumption in kilowatt-hours per day shall be calculated equivalent to:

$$ET = (1440 \text{ x } EP1/T1) + \sum_{i=1}^{D} [(EP2_i - (EP1 \text{ x } T2_i/T1)) \text{ x } (12/CT_i)]$$

Where:

1440 is defined in 5.2.1.1 and EP1, T1, and 12 are defined in 5.2.1.2;

i is a variable that can equal 1, 2, or more that identifies the distinct defrost cycle types applicable for the refrigerator or refrigerator-freezer;

$EP2_i$ = energy expended in kilowatt-hours during the second part of the test for defrost cycle type i;

$T2_i$ = length of time in minutes of the second part of the test for defrost cycle type i;

$CT_i$ is the compressor run time between instances of defrost cycle type i, for long-time automatic defrost control equal to a fixed time in hours rounded to the nearest tenth of an hour, and for variable defrost control equal to $(CT_{Li} \times CT_{Mi})/(F \times (CT_{Mi} - CT_{Li}) + CT_{Li})$;

$CT_{Li}$ = least or shortest compressor run time between instances of defrost cycle type i in hours rounded to the nearest tenth of an hour ($CT_L$ for the defrost cycle type with the longest compressor run time between defrosts must be greater than or equal to 6 but less than or equal to 12 hours);

$CT_{Mi}$ = maximum compressor run time between instances of defrost cycle type i in hours rounded to the nearest tenth of an hour (greater than $CT_{Li}$ but not more than 96 hours);

For cases in which there are more than one fixed CT value (for long-time defrost models) or more than one $CT_M$ and/or $CT_L$ value (for variable defrost models) for a given defrost cycle type, an average fixed CT value or average $CT_M$ and $CT_L$ values shall be selected for this cycle type so that 12 divided by this value or values is the frequency of occurrence of the defrost cycle type in a 24 hour period, assuming 50% compressor run time.

F = default defrost energy consumption factor, equal to 0.20.

For variable defrost models with no values for $CT_{Li}$ and $CT_{Mi}$ in the algorithm, the default values of 6 and 96 shall be used, respectively.

D is the total number of distinct defrost cycle types.

## IV. Summary and Request for Comments

Through today's notice, DOE announces receipt of Samsung's petition for waiver from certain parts of the test procedure applicable to refrigerator-freezers and grants an interim waiver to Samsung. DOE is publishing Samsung's petition for waiver in its entirety pursuant to 10 CFR 430.27(b)(1)(iv). The petition contains no confidential information. The petition includes a suggested alternate test procedure to measure the energy consumption of refrigerator-freezer basic models that incorporate multiple defrost cycles.

DOE solicits comments from interested parties on all aspects of the petition. Pursuant to 10 CFR 430.27(b)(1)(iv), any person submitting written comments to DOE must also send a copy of such comments to the petitioner. The contact information for the petitioner is: Michael Moss, Director of Corporate Environmental Affairs, Samsung Electronics America, Inc., 19 Chapin Road, Building D, Pine Brook, NJ 07058. All submissions received must include the agency name and case number for this proceeding. Submit electronic comments in WordPerfect, Microsoft Word, Portable Document Format (PDF), or text (American Standard Code for Information Interchange (ASCII)) file format and avoid the use of special characters or any form of encryption. Wherever possible, include the electronic signature of the author. DOE does not accept telefacsimiles (faxes).

Issued in Washington, DC, on October 28, 2013.

**Kathleen B. Hogan,**

*Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.*

September 23, 2013
Dr. David Danielson
Energy Efficiency and Renewable Energy
Department of Energy
1000 Independence Avenue, SW.
Washington, DC 20585

Dear Assistant Secretary Danielson:

Samsung Electronics America, Inc. (''Samsung'') respectfully submits this Application for Interim Waiver and Petition for Waiver to the Department of Energy (''DOE'' or ''the Department'') for Samsung's compressor refrigerator-freezers with multiple defrost cycles.

**Reasoning**

10 CFR Part 430.27(a)(1) allows a person to submit a petition to waive for a particular basic model any requirements of § 430.23 upon the grounds that the basic model contains one or more design characteristics which either prevent testing of the basic model according to the prescribed test procedures, or the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data.

Current test procedures as prescribed in Appendix A1 to Subpart B of Part 430 (''Appendix A1'') do not adequately provide a way for Samsung to accurately represent the energy consumption of its refrigerator-freezers with multiple defrost cycles. DOE concurred with Samsung's understanding in the interim waiver granted to Samsung in 76 FR 16760 [2] and subsequently granted the waiver on January 10, 2012 (77 FR 1474). Additionally, DOE communicated that all manufacturers planning on marketing refrigerator-freezers with multiple defrost cycles must seek a waiver from the Department.[3]

For the reasons that DOE described in its granting of waiver (77 FR 1474) for Samsung refrigerator freezers with multiple defrost cycles, Samsung believes that the granting of Interim Waiver and Waiver for the models listed below are warranted.

**Request**

Samsung requests that the alternate test procedure for refrigerators with multiple defrost cycles, as prescribed in the waiver (77 FR 1474) and in the interim waiver (77 FR 13109) granted to Samsung, be granted for the following basic Samsung refrigerator-freezers with multiple defrost cycles models:

RS22HD*PN**

Please feel free to contact me if you have any questions regarding this Petition for Waiver and Application for Interim Waiver. I will be happy to discuss should any questions arise.

Sincerely,
Michael Moss
Director of Corporate Environmental Affairs

[FR Doc. 2013–26086 Filed 10–31–13; 8:45 am]

BILLING CODE 6450–01–P

[2] DOE understands, however, that absent an interim waiver, Samsung's products would not be accurately tested and rated for energy consumption because the current energy test procedure does not include test procedures for products with multiple defrost cycle types.

[3] Until these amendments are required in conjunction with the 2014 standards, manufacturers introducing products equipped with multiple defrost cycle types should, consistent with 10 CFR 430.27, petition for a waiver since the modified version of Appendix A1 set out in today's notice will not include a specified method for capturing this energy usage.

## DEPARTMENT OF ENERGY

### Office of Energy Efficiency and Renewable Energy

**[Case No. DW–011]**

### Energy Conservation Program for Consumer Products: Decision and Order Granting a Waiver to Whirlpool Corporation From the Department of Energy Residential Dishwasher Test Procedure

**AGENCY:** Office of Energy Efficiency and Renewable Energy, Department of Energy.

**ACTION:** Decision and Order.

**SUMMARY:** The U.S. Department of Energy (DOE) gives notice of the decision and order (Case No. DW–011) that grants to Whirlpool Corporation (Whirlpool) a waiver from the DOE dishwasher test procedure. The waiver pertains to the models of dishwasher equipped with a ''water use system'' specified in Whirlpool's petition. Under today's decision and order, Whirlpool shall be required to test and rate its KitchenAid brand dishwasher equipped with a ''water use system'' using an alternate test procedure that takes this technology into account when measuring energy and water consumption.

**DATES:** This Decision and Order is effective November 1, 2013.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Bryan Berringer, U.S. Department of Energy, Building Technologies Program, Mail Stop EE–2J, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–0371. Email: *Bryan.Berringer@ee.doe.gov.*

Ms. Elizabeth Kohl, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC–71, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585–0103. Telephone: (202) 586–7796. Email: *Elizabeth.Kohl@hq.doe.gov.*

**SUPPLEMENTARY INFORMATION:** In accordance with Title 10 of the Code of Federal Regulations (10 CFR), Section 430.27(l), DOE gives notice of the issuance of its decision and order as set forth below. The decision and order grants Whirlpool a waiver from the applicable residential dishwasher test procedure at 10 CFR part 430 subpart B, appendix C1, for the KitchenAid brand basic model KDTE554C++# dishwasher equipped with a ''water use system'' as specified in its petition, provided that Whirlpool tests and rates such products using the alternate test procedure described in this notice. Today's decision prohibits Whirlpool from making representations concerning the energy efficiency of these products unless the product has been tested in a manner consistent with the provisions and restrictions in the alternate test procedure set forth in the decision and order below, and the representations fairly disclose the test results.

Distributors, retailers, and private labelers are held to the same standard when making representations regarding the energy efficiency of these products.

Issued in Washington, DC, on October 28, 2013.

**Kathleen B. Hogan,**

*Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.*

### Decision and Order

*In the Matter of:* Whirlpool Corporation (Case No. DW–011)

*Background*

Title III, Part B of the Energy Policy and Conservation Act of 1975 (EPCA), Public Law 94–163 (42 U.S.C. 6291–6309, as codified) established the Energy Conservation Program for Consumer Products Other Than Automobiles, a program covering most major household appliances, which includes dishwashers.[1] Part B includes definitions, test procedures, labeling provisions, energy conservation standards, and the authority to require information and reports from manufacturers. Further, Part B authorizes the Secretary of Energy to prescribe test procedures that are reasonably designed to produce results which measure energy efficiency, energy use, water use, or estimated operating costs, and that are not unduly burdensome to conduct. 42 U.S.C. 6293(b)(3). The test procedure for dishwashers is contained in 10 CFR part 430, subpart B, appendix C1.

DOE's regulations contain provisions allowing a person to seek a waiver from the test procedure requirements for covered consumer products if at least one of the following conditions is met: (1) The petitioner's basic model contains one or more design characteristics that prevent testing according to the prescribed test procedure, or (2) when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data. (10 CFR 430.27(a)(1)) Petitioners must include in their petition any alternate test procedures known to the petitioner to evaluate the basic model in a manner representative of its energy consumption characteristics.

The Assistant Secretary for Energy Efficiency and Renewable Energy (the Assistant Secretary) may grant a waiver subject to conditions, including adherence to alternate test procedures. (10 CFR 430.27(l)) Waivers remain in effect pursuant to the provisions of 10 CFR 430.27(m).

On July 3, 2013, Whirlpool submitted the petition for waiver and interim waiver from the test procedure applicable to dishwashers set forth in 10 CFR part 430, subpart B, appendix C1. Whirlpool seeks a waiver from the applicable test procedure for its KitchenAid brand basic model KDTE554C++# dishwasher equipped with a ''water use system'' because, Whirlpool asserts, design characteristics of this basic model prevent testing in accordance with the currently prescribed test procedure and will lead to results that are materially inaccurate and mislead consumers.

Whirlpool states that the dishwasher ''water use system'' saves water from the final rinse of a given dishwasher cycle for use in a subsequent dishwasher cycle. If not operated for three or more days, the dishwasher will ''drain out'' the saved water. The dishwasher also performs a ''clean out'' every thirty days or thirty cycles, whichever occurs first. Both ''drain out'' and ''clean out'' events consume additional water and energy during the subsequent cycle. This additional water and energy consumption are accounted for in the waiver petition. The ''water use system'' is installed on soil-sensing model dishwashers that utilize 120 degree (deg.) Fahrenheit (F) inlet water. A ''drain out'' event consumes an additional 1.02 gallons of water for a cycle in which it occurs. The ''clean out'' event consumes an additional 1.24 gallons of water for a cycle in which it occurs. ''Drain out'' and ''clean out'' events occur during the active mode, but before the power dry portion of the cycle begins. The power dry, fan-only mode, inactive mode, and off mode are not affected by ''water use system'' operation water consumption or energy consumption.

Whirlpool provided an alternative test method that would add these constant values to the energy and water use measured pursuant to Appendix C1, as well as a constant water consumption value to determine the detergent quantity for testing. Whirlpool also provided the additional information and calculations below in support of its alternative test method.

[1] For editorial reasons, upon codification in the U.S. Code, Part B was re-designated Part A.

Further detail and calculation method:

''Drain out'' event (if dishwasher is not used for 3 or more days)—The ''drain out'' event consumes an additional 1.02 gallons of water for the cycle in which it occurs. Consumer research shows that only seven percent of consumer cycles, for consumers who run approximately 215 cycles/year, have longer than a three day delay between cycles. This results in ''drain out'' water and energy usage of 0.072 gallons/cycle and 2.61 kWh/year:

- 7 percent of 215 cycles/year equates to 15.1 cycles/year.
- 15.1 cycles/year multiplied by 1.02 gallons/cycle results in 15.4 gallons/year of additional water usage for ''drain out'' events.
- 15.4 gallons/year apportioned across all 215 cycles calculates to 0.072 gallons/cycle.
- The ''drain out'' event water energy consumption, based on 15.4 gallons/year, calculates to 2.59 kWh/year (15.4 gallons/year multiplied by 70 deg. F water heater temperature rise multiplied by the constant K of 0.0024 kWh/gallon/deg. F).
- The additional machine energy consumption associated with a ''drain out'' event is less than 0.001 kWh/event or 0.02 kWh/year.

○ Pump and valve: 10 W for 4.5 minutes followed by 30 W for 0.5 minutes; 7 percent of 215 cycles/year is used for the calculation.

''Clean out'' event (every 30 days or 30 dishwasher cycles whichever occurs first)—The ''clean out'' event consumes an additional 1.24 gallons of water for the cycle in which it occurs. Water is heated during the ''clean out'' event. A ''clean out'' event will occur every 30 days (used for this calculation) or 12.2 events/year. 12.2 events/year, based on 215 cycles/year, calculates to 6 percent of all dishwasher cycles. Water and energy use (apportioned) are 0.071 gallons/cycle and 10.3 kWh/year:

- 1.24 gallons/event multiplied by 12.2 events/year calculates to 15.1 gallons/year of additional water usage for ''clean out'' events.
- 15.1 gallons/year apportioned across all 215 cycles calculates to 0.071 gallons per cycle.
- The ''clean out'' event water energy consumption, based on 15.1 gallons/year, calculates to 2.54 kWh/year (15.1 gallons/year multiplied by 70 deg. F water heater temperature rise multiplied by the constant K of 0.0024 kWh/gallon/deg. F).
- The additional machine energy consumption associated with a ''clean out'' event is 7.72 kWh/year from pump, valve, and heater operation.

○ Pump and valve: Approximately 0.006 kWh per event or 0.073 kWh per year (electrical components use an additional 30 W for a combined duration of 9 minutes plus 10 W for a combined duration of 8.5 minutes; the calculation is based on 12.2 events per year).

○ Pump and heater: 1.24 gallons of water is heated for approximately 47 minutes using 800 watts, or 0.63 kWh/event. This calculates to 7.65 kWh/year based on 12.2 events/year.

Calculation of detergent concentration:

A portion of the water fill volume comes from saved water fill instead of the house supply water fill. This saved water fill amount (0.80 gallons) should be included with (added to) the house supply water fill amount (0.11 gallons) when calculating detergent concentration for the wash (a total of 0.91 gallons). The method to determine the saved water fill volume is affected by several factors including when the first cycle is run on a new dishwasher and ''charging'' of the sump and water lines. Two approaches may be used to determine the amount of water in the first fill:

1. Use a constant amount of water for the wash fill of 0.91 gallons. This is the recommended approach and is representative.
2. Measure the amount of drain water discharged during the first drain out. Measure this amount during the second preconditioning cycle. This would be approximately 0.91 gallons.

*Assertions and Determinations*

Whirlpool's Petition for Waiver

On July 3, 2013, Whirlpool filed a petition for waiver from the test procedure applicable to residential dishwashers set forth in 10 CFR part 430, subpart B, appendix C1 for particular models of dishwasher equipped with a ''water use system.'' On August 9, 2013, DOE published Whirlpool's petition for waiver and granted Whirlpool an interim waiver from the current test procedure. 78 FR 48661.

DOE received one comment on Whirlpool's petition from BSH Home Appliance Corporation (BSH). BSH stated that the annual energy consumption and water consumption contributions associated with ''drain out'' should be 41.75 gallons per year and 7.05 kilowatt-hours (kWh) per year instead of 15.4 gallons per year and 2.6 kWh per year as included in the original petition for waiver. BSH based its calculations on data presented in a report by Arthur D. Little (ADL) that was used in support of the 2003 test procedure final rule. 68 FR 51887 (August 29, 2003). Whirlpool provided a rebuttal of BSH's comment on September 20, 2013 stating that they disagree with BSH's conclusions and maintain the calculations in the interim waiver are consistent with the precedent set by DOE and implemented by stakeholders; therefore, Whirlpool asserted that their original calculations should continue as the foundation of the Petition for Waiver. DOE notes that the data presented in the ADL report show the distribution of annual cycles among the surveyed consumers, but do not present further information regarding the typical intervals between consecutive cycles. The calculations provided by BSH include assumptions regarding the typical cycle interval, but these are not necessarily representative of consumer behavior. For example, if the number of annual cycles results in greater than a 3-day average interval between cycles (*i.e.,* 121 annual cycles or less), the BSH calculations assume every cycle per year will have a ''drain out'' event. In reality, consumers with greater than 3-day average intervals between cycles will likely run a portion of the annual cycles within 3 days of each other, so it is likely that less than 100-percent of these cycles will have a ''drain out'' event. When the average interval between cycles is less than 3 days (*i.e.,* more than 121 annual cycles), BSH's calculations still assume a portion of the cycles will have a ''drain out'' event, reflecting that some cycles likely are not run within 3 days of the previous cycle. As a result, DOE concludes that the BSH calculations likely overestimate the annual energy consumption and water consumption associated with ''drain out'' events because they assume the ''drain out'' occurs on every cycle for the consumers with less than 121 annual cycles, but also assume that some ''drain out'' events occur for consumers with more than 121 annual cycles. To consistently apply cycle interval data inferred from the ADL data, if the calculations assume that ''drain out'' events occur for all cycles for consumers with average intervals between cycles greater than or equal to 3 days, then no ''drain out'' events should be assumed for consumers with average intervals between cycles of less than 3 days. Doing so would decrease the annual ''drain out'' energy consumption to 2.93 kWh per year, and the water consumption to 17.3 gallons per year. These values are close to Whirlpool's estimates of 2.6 kWh per year and 15.4 gallons per year, which are based on

consumer research that includes information on intervals between cycles. Given the uncertainty in estimating cycle intervals from the ADL report, DOE concludes that Whirlpool's estimates are reasonable and is not revising the values that were included in the alternate test procedure as presented in the interim waiver published on August 9, 2013. 78 FR 48661.

BSH also stated that DOE should consider removing two additional requirements: The requirement for a new dishwasher to be used in testing and, if more than 68 hours elapse between test cycles, the requirement to disconnect and reconnect power to the dishwasher to restart the test series. According to BSH, these two requirements may offer a means to circumventing the test procedure. In Whirlpool's September 20, 2013 rebuttal, they also disagree with BSH assessment. DOE notes that while Whirlpool included the requirement for a new machine for testing as part of its petition for waiver, DOE did not include this requirement in the alternate test procedure set forth in the interim waiver granted to Whirlpool. Such a requirement would impose an unreasonable burden when multiple tests are conducted.

DOE did, however, include in the alternate test procedure the requirement to disconnect and reconnect power to the machine if a ''drain out'' or ''clean out'' event occurs during a test series, and to subsequently restart the test series with the controls reset. This approach would not place burden on test laboratories by requiring them to monitor the time intervals between cycles and number of cycles throughout multiple tests. Should laboratories choose to do so, DOE included the 68-hour maximum interval between test cycles as an informative means for avoiding ''drain out'' events during testing. Because testing is conducted on products that are in their initial state disconnected from the power supply, the conduct of the test procedure after disconnecting power after a ''drain out'' or ''clean out'' event is the same as the conduct of any test in which the test series is begun by connecting power to the machine and starting the test cycles. In each case, a ''clean out'' event would take place during the first cycle after power is supplied to the machine. For these reasons, DOE is maintaining the testing provisions included in the alternate test procedure set forth in the interim waiver published on August 9, 2013. 78 FR 48661.

Therefore, for the reasons discussed above, DOE grants Whirlpool's petition for waiver from testing of its KitchenAid brand basic model KDTE554C++# dishwasher equipped with a ''water use system.''

Consultations With Other Agencies

DOE consulted with the Federal Trade Commission (FTC) staff concerning the Whirlpool petition for waiver. The FTC staff did not have any objections to granting a waiver to Whirlpool.

Conclusion

After careful consideration of all the material that was submitted by Whirlpool and consultation with the FTC staff, it is ordered that:

(1) The petition for waiver submitted by Whirlpool Corporation (Case No. DW–011) is hereby granted as set forth in the paragraphs below.

(2) Whirlpool shall be required to test and rate the following Whirlpool models according to the alternate test procedure set forth in paragraph (3) below.

*KitchenAid brand:* Basic Model—KDTE554C ++ #

(3) Whirlpool shall be required to test the products listed in paragraph (2) above according to the test procedures for residential dishwashers prescribed by DOE at 10 CFR part 430, subpart B, appendix C1, except that, for the Whirlpool products listed in paragraph (2) only with the following:

''Water use system'' water and energy consumption shall be accounted for during dishwasher water and energy measurement and reporting. The following is a summary of the additional modifications required:

- For ''drain out'' events, constant values of 0.072 gallons per cycle and 2.6 kWh/year shall be added to values measured by appendix C1.
- For ''clean out'' events, constant values of 0.071 gallons per cycle and 10.3 kWh/year shall also be added to values measured by appendix C1.
- To calculate the detergent quantity for testing, a constant value of 0.91 gallons for the water fill amount shall be used, representing both saved water fill and house supply water fill.
- If a ''drain out'' or ''clean out'' event occurs during testing, any results from that use of the test procedure shall be disregarded. Disconnect and reconnect power to the dishwasher, then restart the test procedure.

○ To detect a ''drain out'' event, measure the water volume supplied during the first fill. A cycle shall be considered to have a ''drain out'' event if the first fill uses approximately 1 gallon from the water supply. Without a ''drain out'' event, the first fill would use approximately 0.11 gallons from the water supply.

○ To detect a ''clean out'' event, monitor the temperature of the sump water using an additional temperature measuring device. The device shall be placed inside the sump in an area such that the device will always be submerged in water and will not interfere with the operation of the dishwasher. A cycle shall be considered to have a ''clean out'' event if the temperature of the sump water during wash and rinse portions of the cycle reaches 150 deg. F. Without a ''clean out'' event, the highest sump water temperatures would reach approximately 140 deg. F.

- It is recommended that all testing be completed within 28 days, and within 28 cycles of first dishwasher use, to avoid a ''clean out'' event. No more than 68 hours should lapse between the start of cycles to avoid a ''drain out'' event. Cycles include preconditioning cycles as well as test cycles.

Other testing requirements or considerations:

To confirm if saved water has returned to room ambient temperature, a thermocouple may be placed on the surface of saved water tank to measure temperature. Reference section 2.5.1 of appendix C1.

Removing power from the dishwasher will result in a ''clean out'' event during the next dishwasher cycle. As required by section 2.2.1 of appendix C1, it is necessary to maintain a continuous electrical supply to the unit throughout testing, including during preconditioning cycles and the test cycle series.

(4) Representations. Whirlpool may make representations about the energy use of its dishwasher equipped with a ''water use system'' products for compliance, marketing, or other purposes only to the extent that such products have been tested in accordance with the provisions outlined above and such representations fairly disclose the results of such testing.

(5) This waiver shall remain in effect consistent with the provisions of 10 CFR 430.27(m).

(6) This waiver is issued on the condition that the statements, representations, and documentary materials provided by the petitioner are valid. DOE may revoke or modify this waiver at any time if it determines the factual basis underlying the petition for waiver is incorrect, or the results from the alternate test procedure are unrepresentative of the basic models' true energy consumption characteristics.

(7) This waiver applies only to those basic models set out in Whirlpool's July

3, 2013 petition for waiver. Grant of this waiver does not release a petitioner from the certification requirements set forth at 10 CFR part 429.

Issued in Washington, DC, on October 28, 2013.

**Kathleen B. Hogan**

*Deputy Assistant Secretary for Energy Efficiency and Renewable Energy.*

[FR Doc. 2013–26085 Filed 10–31–13; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. AD13–7–000]**

### Centralized Capacity Markets in Regional Transmission Organizations and Independent System Operators; Notice Allowing Post-Technical Conference Comments

On September 25, 2013, the Federal Energy Regulatory Commission (Commission) conducted a technical conference to consider how current centralized capacity market rules and structures in the regions served by ISO New England Inc. (ISO–NE), New York Independent System Operator, Inc. (NYISO), and PJM Interconnection, L.L.C. (PJM) are supporting the procurement and retention of resources necessary to meet future reliability and operational needs.[1]

All interested persons are invited to file post-technical conference comments on any or all of the questions listed in the attachment to this Notice. Commenters need not address every question. Commenters are also invited to rely on or cite to testimony that was previously filed in this docket and the technical conference transcript in their comments. These comments must be filed with the Commission no later than 5:00 p.m. Eastern Standard Time (EST) on Monday, December 9, 2013.

For more information about this Notice, please contact:

Shiv Mani (Technical Information), Office of Energy Policy and Innovation, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–8240, *Shiv.Mani@ferc.govmailto:*

Kate Hoke (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–8404, *Katheryn.Hoke@ferc.gov.*

Dated: October 25, 2013.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

### Post-Technical Conference Questions for Comment

*1. Role of Capacity Markets and Definition of the Capacity Product*

Panelists discussed the definition of the capacity product and, in particular, the relationship between the capacity and energy and ancillary services markets, both today and in the future as electric system needs change. In particular, panelists addressed the importance of properly defining the capacity product, and whether additional capacity products should be defined to recognize future system operational needs. Some favored retention of the current design, procuring a single capacity product focused on meeting basic resource adequacy requirements, with any operational attributes needed to meet system requirements procured in the energy and ancillary services markets. Others favored an approach that would procure differentiated products in capacity markets, incorporating attributes that meet specific operational needs. In addition, panelists discussed how different categories of resources (traditional generation, new resources vs. existing resources, demand response, energy efficiency, distributed generation, etc.) should be valued and accounted for in centralized capacity markets.

- When procuring a single capacity product, as under current market designs, are there certain fundamental performance standards that capacity resources should be required to meet in the delivery year to ensure resource adequacy? Should any such requirement change depending on the type of resource (traditional generation, new resources vs. existing resources, demand response, energy efficiency, distributed generation, etc.)?
- Should existing capacity products be modified to reflect various operational characteristics needed to meet system needs? If there is a need for additional capacity products, how should those products be defined and procured in light of the current one day in ten year resource adequacy approach?
- Alternatively, if it is more appropriate to rely on energy and ancillary services markets to obtain needed operational characteristics, how can market participants and regulators be confident that resources capable of providing such ancillary services will be available in future periods? To what extent are the existing categories of ancillary services adequate to meet current and future operational needs without a forward market?
- What improvements are needed in how centralized capacity markets determine qualification as a capacity resource? Do the requirements to participate in the centralized capacity markets accommodate all resources (whether supply-side, demand-side, or imports) that are technically capable of providing the traditional forward capacity product?
- As changes in technology and markets drive new system needs, are modifications needed to existing methods for determining resource adequacy requirements (i.e., the reserve margins centralized capacity markets are designed to procure)?
- What is the role(s) of centralized capacity markets? Should the centralized capacity markets function as a mandatory market for procuring capacity or a residual market that entities only need to use to meet their resource adequacy obligations that they cannot otherwise meet through self-supply?

*2. Accommodating State Policies and Self-Supply by Load Serving Entities*

As discussed at the technical conference, States have policies to maintain resource adequacy and procure specific resources to meet environmental objectives. In addition, load serving entities are often interested in supplying their own resource adequacy requirements; some load serving entities (LSEs) have suggested that current centralized capacity market designs do not allow them to do so effectively. Incorporating States' policies and LSE preferences in the design of capacity markets has raised challenges for the Commission in ensuring the integrity of its wholesale markets.

- In what ways do the current centralized capacity market designs facilitate, or hinder, the ability of market participants to enter into arrangements to supply their own resource adequacy requirements? Should the Commission consider changes to the current capacity market designs to facilitate these arrangements? How would any potential changes impact capacity market prices paid by LSEs and the price signals provided to capacity resources?
- Some panelists suggested other potential modifications to the existing centralized capacity markets to accommodate self-supply and/or state policies, including limited or resource

[1] While the Commission recognizes that other regions are considering similar issues, the technical conference focused solely on the centralized capacity markets in the ISO–NE, NYISO and PJM regions. Thus, post-technical conference comments should be focused on those three regions as well.

class-specific exemptions from buyer-side mitigation rules, or offsetting reductions in the amount of capacity procured in the centralized capacity market. What are the advantages or disadvantages of such changes? Are there additional potential changes to particular design elements that should be considered to accommodate self-supply and/or state policies? How would any potential changes accommodate the long-term price signals that several panelists argued are necessary for capacity investment?

• PJM offers LSEs the alternative to opt out of its capacity auction by using the Fixed Resource Requirement (FRR) option. Should such an alternative be offered in other eastern Regional Transmission Organization (RTO)/Independent System Operator (ISO) centralized capacity markets? Given that the FRR option was originally developed to address a narrow set of circumstances facing the PJM region and its market participants at that time, would modifications to this alternative be appropriate to meet the needs of regions and market participants today? For example, are there changes to the current FRR option that could be adopted to allow increased flexibility for entities looking to partially self-supply their capacity requirements while preventing adverse impacts on the competitiveness of the market?

*3. Market Design Elements*

Throughout the technical conference, comparisons of the RTO/ISO capacity markets and market design elements were made, including whether there is a need for consistency in the approach to capacity markets across the eastern RTOs/ISOs and the interaction of the capacity market with other RTO/ISO markets. Panelists suggested that consistent approaches with respect to some design elements could improve the ability of market participants to participate in multiple markets.

• Slope of demand curve. A number of panelists commented that a downward-sloping demand curve is preferable to a vertical demand curve. What are the advantages and disadvantages of a sloped demand curve versus a vertical demand curve? What are the key design criteria appropriate to consider in establishing the slope of the demand curve in each of the eastern RTO/ISO centralized capacity markets?

• Derivation of Resource Adequacy Requirements. Whether using a sloped or vertical demand curve, RTOs/ISOs must attempt to accurately assess future capacity needs in order to ensure resource adequacy in the delivery year. Are there improvements to the derivation of an RTO/ISO's resource adequacy requirement that would improve the functioning of its capacity market? How do differences in the derivation of resource adequacy requirements across the RTOs/ISOs impact the markets? For RTOs/ISOs with three-year forward markets, should the RTO/ISO procure 100 percent of its resource adequacy requirement three years in advance of the delivery year, or is there a portion of the resource adequacy requirement that can be reliably procured closer to the delivery year? What are the advantages and disadvantages of procuring a portion of the resource adequacy requirement closer to the delivery year?

• Derivation of Net Cost of New Entry (CONE). Panelists did not focus extensively on the derivation of Net CONE, although it was discussed in the staff white paper. Are there improvements to the derivation of Net CONE that would improve the functioning of capacity markets? How do differences in the derivation of Net CONE across the RTOs/ISOs impact the markets?

• Length of forward period. Panelists debated the merits of a longer or shorter forward period in centralized capacity markets. Some argued that a longer forward period can aid in managing retirements; others argued that a shorter forward period facilitates bilateral contracting. What are the advantages, disadvantages and related considerations that may support longer or shorter forward periods? Should the length of the forward period vary for different categories of resources (traditional generation, new resources vs. existing resources, demand response, energy efficiency, distributed generation, etc.)?

• Length of commitment period. Commitment periods also vary by RTO/ISO and by resource-type. Is there an ideal length of the commitment period? Should the length of commitment period vary for different categories of resources (traditional generation, new resources vs. existing resources, demand response, energy efficiency, distributed generation, etc.)? Does the length of the commitment period impact the ability and willingness of buyers and sellers to enter into bilateral contracts? How do differences in commitment periods across the RTOs/ISOs impact the markets?

• Zones. Some panelists at the technical conference asserted that capacity market zones are not sufficiently granular and do not change often enough to reflect important market and system changes. Are there advantages or disadvantages associated with increasing the granularity of capacity zones? If so, what are they? What are the challenges, advantages or disadvantages of a dynamic approach to establishing capacity zones?

• Coordination of transmission planning and capacity market. Price signals in the capacity markets also provide information to transmission planners to the extent that transmission may substitute for capacity resources. How can investment in capacity and transmission planning be better coordinated? Should the capacity market planning process and transmission planning process use common assumptions and common planning horizons?

• Retirement notice. What role do retirement and mothballing decisions and notification play in the operation of the eastern RTO/ISO centralized capacity markets? Is there an ideal approach to retirement or mothballing notification? What is the impact of different retirement or mothballing notice procedures across the eastern RTOs/ISOs on the market, resource adequacy and reliability?

*4. Regulatory Certainty*

Several panelists stated the importance of regulatory certainty in achieving capacity market stability. Regulatory certainty reduces risk and thereby lowers barriers to entry in capacity markets. Conversely, some panelists identified significant market design issues that, if resolved, could improve capacity market efficacy. While recognizing that regional differences may be necessary, some panelists suggested that a minimum level of best practices across the three eastern RTO/ISO centralized capacity markets also would lead to greater regulatory certainty and provide inter-regional benefits.

• How should the Commission strike a reasonable balance in adopting market rule changes when necessary without creating undue regulatory uncertainty?

• What are the advantages and disadvantages of an RTO/ISO regularly revisiting certain market design elements, such as NYISO's triennial reset of its capacity demand curve?

*5. Next Steps*

Conference panelists indicated that further direction from the Commission could help to inform the development of appropriate eastern RTO/ISO centralized capacity market design elements in the future.

• What Commission action would be an appropriate next step with respect to those markets?

• Are there outstanding issues or questions raised by, but not fully discussed at, the conference that should be considered in this proceeding?

• Are there other issues that, if addressed, would help the centralized capacity markets ensure resource adequacy in a just and reasonable and not unduly discriminatory manner (e.g., enhancements to the energy and ancillary services markets) that should be considered by the Commission in another forum?

[FR Doc. 2013–26090 Filed 10–31–13; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER11–1858–002, ER11–1859–001.
*Applicants:* NorthWestern Corporation.
*Description:* NorthWestern Energy and Montana Generation, LLC submits the Triennial Market Power Update Analysis for Markets in the Northwest Region pursuant to Order No. 697.
*Filed Date:* 10/18/13.
*Accession Number:* 20131022–0006.
*Comments Due:* 5 p.m. ET 12/17/13.

*Docket Numbers:* ER11–4436–002; ER10–2473–003; ER10–2502–003; ER10–2472–003; ER11–2724–003.
*Applicants:* Black Hills Power, Inc., Cheyenne Light Fuel & Power Company, Black Hills/Colorado Electric Utility Co, LP, Black Hills Colorado IPP, LLC, Black Hills Wyoming, LLC.
*Description:* Amendment to June 28, 2013 Updated Market Power Analysis of the Black Hills Corporation Public Utilities for the Northwest Region.
*Filed Date:* 10/23/13.
*Accession Number:* 20131023–5055.
*Comments Due:* 5 p.m. ET 11/13/13.

*Docket Numbers:* ER13–1556–001.
*Applicants:* Entergy Services, Inc.
*Description:* Entergy Services, Inc., Amended Service Agreements to be effective 12/19/2013.
*Filed Date:* 10/22/13.
*Accession Number:* 20131022–5117.
*Comments Due:* 5 p.m. ET 11/12/13.

*Docket Numbers:* ER14–156–000.
*Applicants:* Southern California Edison Company.
*Description:* Amended SGIAs and Distrib Serv Agmts EDPR Agincourt LLC and EDPR Marathon LLC to be effective 10/23/2013.
*Filed Date:* 10/22/13.
*Accession Number:* 20131022–5089.
*Comments Due:* 5 p.m. ET 11/12/13.

*Docket Numbers:* ER14–158–000.
*Applicants:* Merchant's Plaza Energy, LLC.
*Description:* Cancellation of MBR Tariff to be effective 10/22/2013.
*Filed Date:* 10/22/13.
*Accession Number:* 20131022–5102.
*Comments Due:* 5 p.m. ET 11/12/13.

*Docket Numbers:* ER14–159–000.
*Applicants:* Freedom Logistics, LLC.
*Description:* Notice of Cancellation of MBR Tariff to be effective 10/22/2013.
*Filed Date:* 10/22/13.
*Accession Number:* 20131022–5106.
*Comments Due:* 5 p.m. ET 11/12/13.

*Docket Numbers:* ER14–160–000.
*Applicants:* Entergy Gulf States Louisiana, L.L.C., Entergy Texas, Inc., Entergy Louisiana, LLC.
*Description:* A&R Toledo Bend PSA 10–22–2013 to be effective 12/19/2013.
*Filed Date:* 10/22/13.
*Accession Number:* 20131022–5111.
*Comments Due:* 5 p.m. ET 11/12/13.

*Docket Numbers:* ER14–161–000.
*Applicants:* American Electric Power Service Corporation, AEP Indiana Michigan Transmission Company, Indiana Michigan Power Company, Wabash Valley Power Association, Inc., PJM Interconnection, L.L.C.
*Description:* AEP submits 10th Revised ILDSA among AEPSC & Wabash Valley Power-PJM SA No. 1262 to be effective 9/17/2010.
*Filed Date:* 10/22/13.
*Accession Number:* 20131022–5115.
*Comments Due:* 5 p.m. ET 11/12/13.

*Docket Numbers:* ER14–162–000.
*Applicants:* Westwood Generation, LLC.
*Description:* Compliance Update to be effective 10/23/2013.
*Filed Date:* 10/23/13.
*Accession Number:* 20131023–5015.
*Comments Due:* 5 p.m. ET 11/13/13.

*Docket Numbers:* ER14–163–000.
*Applicants:* Southwest Power Pool, Inc.
*Description:* 1839R2 City of Osage NITSA NOA Ministerial Filing to be effective 8/1/2013.
*Filed Date:* 10/23/13.
*Accession Number:* 20131023–5038.
*Comments Due:* 5 p.m. ET 11/13/13.

*Docket Numbers:* ER14–164–000.
*Applicants:* Southern California Edison Company.
Description: Southern California Edison Company submits tariff filing per 35.13(a)(2)(iii: Amended LGIA with Mojave Solar, LLC to be effective 10/24/2013.
*Filed Date:* 10/23/13.
*Accession Number:* 20131023–5058.
*Comments Due:* 5 p.m. ET 11/13/13.

*Docket Numbers:* ER14–165–000.
*Applicants:* Southern California Edison Company.
*Description:* Southern California Edison Company submits tariff filing per 35.13(a)(2)(iii: Revised Added Facilities Rate for Sycamore, Kern River, and KM Acquisitions to be effective 5/15/2013.
*Filed Date:* 10/23/13.
*Accession Number:* 20131023–5060.
*Comments Due:* 5 p.m. ET 11/13/13.

*Docket Numbers:* ER14–166–000.
*Applicants:* Rigby Energy Resources, LP.
*Description:* Rigby Energy Resources, LP submits tariff filing per 35.12: Initial Filing to be effective 12/23/2013.
*Filed Date:* 10/23/13.
*Accession Number:* 20131023–5073.
*Comments Due:* 5 p.m. ET 11/13/13.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: October 23, 2013.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2013–26091 Filed 10–31–13; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings #2

Take notice that the Commission received the following electric corporate filings:

*Docket Numbers:* EC14–13–000.
*Applicants:* Portland General Electric Company, BA Leasing BSC, LLC, Fale-Safe Incorporated.
*Description:* Application of Portland General Electric Company, BA Leasing

BSC, LLC and Fale-Safe, Incorporated under FPA Section 203 and Request for Expedited Consideration.

*Filed Date:* 10/24/13.

*Accession Number:* 20131024–5085.

*Comments Due:* 5 p.m. ET 11/14/13.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER12–911–007.

*Applicants:* CPV Sentinel, LLC.

*Description:* Notice of Non-Material Change in Status of CPV Sentinel.

*Filed Date:* 10/24/13.

*Accession Number:* 20131024–5078.

*Comments Due:* 5 p.m. ET 11/14/13.

*Docket Numbers:* ER13–1422–005.

*Applicants:* Ebensburg Power Company.

*Description:* Inquiry Response to be effective 5/12/2013.

*Filed Date:* 10/24/13.

*Accession Number:* 20131024–5074.

*Comments Due:* 5 p.m. ET 11/14/13.

*Docket Numbers:* ER13–2334–001.

*Applicants:* Midcontinent Independent System Operator, Inc., Alliant Energy Corporate Services, Inc.

Description: Midcontinent Independent System Operator, Inc. submits 10–24–2013 SA 6001 Deficiency Resp Interstate-ITC Att NN to be effective 9/24/2013.

*Filed Date:* 10/24/13.

*Accession Number:* 20131024–5081.

*Comments Due:* 5 p.m. ET 11/14/13.

*Docket Numbers:* ER14–170–000.

*Applicants:* Midcontinent Independent System Operator, Inc.

*Description:* 10–23–2013 Attachment C Filing to be effective 12/22/2013.

*Filed Date:* 10/24/13.

*Accession Number:* 20131024–5000.

*Comments Due:* 5 p.m. ET 11/14/13.

*Docket Numbers:* ER14–172–000.

*Applicants:* ISO New England Inc.

*Description:* Conforming Sections to Approved Language to be effective 9/1/2013.

*Filed Date:* 10/24/13.

*Accession Number:* 20131024–5004.

*Comments Due:* 5 p.m. ET 11/14/13.

*Docket Numbers:* ER14–173–000.

*Applicants:* Southwest Power Pool, Inc.

*Description:* 2198R12 Kansas Power Pool NITSA and NOA to be effective 10/1/2013.

*Filed Date:* 10/24/13.

*Accession Number:* 20131024–5025.

*Comments Due:* 5 p.m. ET 11/14/13.

*Docket Numbers:* ER14–174–000.

*Applicants:* Southwest Power Pool, Inc.

*Description:* 1636R12 Kansas Electric Power Cooperative, Inc. NITSA and NOA to be effective 10/1/2013.

*Filed Date:* 10/24/13.

*Accession Number:* 20131024–5027.

*Comments Due:* 5 p.m. ET 11/14/13.

*Docket Numbers:* ER14–175–000.

*Applicants:* Midcontinent Independent System Operator, Inc.

*Description:* 10–24–2013 SA 1891 Termination NSP-Stoneray Amended GIA to be effective 10/21/2013.

*Filed Date:* 10/24/13.

*Accession Number:* 20131024–5036.

*Comments Due:* 5 p.m. ET 11/14/13.

*Docket Numbers:* ER14–176–000.

*Applicants:* Southwest Power Pool, Inc.

*Description:* 1765R7 KCP&L–GMO NITSA and two NOAs to be effective 10/1/2013.

*Filed Date:* 10/24/13.

*Accession Number:* 20131024–5054.

*Comments Due:* 5 p.m. ET 11/14/13.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

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Dated: October 24, 2013.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2013–26093 Filed 10–31–13; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

*Docket Numbers:* EC14–12–000

*Applicants:* Yellow Jacket Energy, LLC

*Description:* Application of Yellow Jacket Energy, LLC for Authorization Under Section 203 of the Federal Power Act and Request for Confidential Treatment.

*Filed Date:* 10/23/13

*Accession Number:* 20131023–5116

*Comments Due:* 5 p.m. ET 11/13/13

Take notice that the Commission received the following electric rate filings:

*Docket Numbers: ER10–1818–004; ER10–1819–005; ER10–1820–007; ER10–ER10–1817–005*

*Applicants:* Public Service Company of Colorado

*Description:* Public Service Company of Colorado submits additional information related to the Updated Market Power Analysis.

*Filed Date:* 10/18/13

*Accession Number:* 20131023–0035

*Comments Due:* 5 p.m. ET 11/8/13

*Docket Numbers:* ER10–2308–001

*Applicants:* Camden County Energy Recovery Associates, Covanta Delano, Inc., Covanta Delaware Valley, L.P., Covanta Energy Marketing LLC, Covanta Essex Company, Covanta Hempstead Company, Covanta Maine, LLC, Covanta Niagara, L.P., Covanta Plymouth Renewable Energy Limited, Covanta Power LLC, Covanta Union, Inc.

*Description:* Supplement to September 18, 2013 Covanta MBR Entities Notice of Change in Status of Covanta Delano, Inc.

*Filed Date:* 10/22/13

*Accession Number:* 20131022–5127

*Comments Due:* 5 p.m. ET 11/12/13

*Docket Numbers:* ER14–21–001

*Applicants:* Mountain View Solar, LLC

*Description:* Mountain View Solar, LLC Amendment to Application for Market-Based Rates to be effective 11/1/2013.

*Filed Date:* 10/23/13

*Accession Number:* 20131023–5106

*Comments Due:* 5 p.m. ET 11/13/13

*Docket Numbers:* ER14–167–000

*Applicants:* Southwest Power Pool, Inc.

*Description:* 2142R1 Golden Spread Electric Cooperative, Inc. NITSA to be effective 1/1/2011.

*Filed Date:* 10/23/13

*Accession Number:* 20131023–5080

*Comments Due:* 5 p.m. ET 11/13/13

*Docket Numbers:* ER14–168–000

*Applicants:* Duke Energy Florida, Inc.

*Description:* New Smyrna Beach PPA—RS 218 to be effective 1/1/2014.

*Filed Date:* 10/23/13

*Accession Number:* 20131023–5091

*Comments Due:* 5 p.m. ET 11/13/13

*Docket Numbers:* ER14–169–000

*Applicants:* Southwest Power Pool, Inc.

*Description:* 1374R14 Kansas Power Pool and Westar Meter Agent Agreement to be effective 10/1/2013.

*Filed Date:* 10/23/13
*Accession Number:* 20131023–5105
*Comments Due:* 5 p.m. ET 11/13/13

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

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Dated: October 24, 2013.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2013–26092 Filed 10–31–13; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

*Docket Numbers:* EC14–14–000
*Applicants:* NRG Energy Holdings, Inc., Edison Mission Energy
*Description:* Joint Application of NRG Energy Holdings Inc. et al. for Approval of Transaction under Section 203 of the Federal Power Act.
*Filed Date:* 10/25/13
*Accession Number:* 20131025–5066
*Comments Due:* 5 p.m. ET 11/15/13

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER10–3319–011
*Applicants:* Astoria Energy II LLC
*Description:* Notice of Non-Material Change in Status of Astoria Energy II LLC.
*Filed Date:* 10/24/13
*Accession Number:* 20131024–5112
*Comments Due:* 5 p.m. ET 11/14/13

*Docket Numbers:* ER13–2288–001
*Applicants:* AEP Texas Central Company
*Description:* TCC-TNC-South Texas Electric Cooperative Amd & Restated TSA to be effective 8/8/2013.
*Filed Date:* 10/25/13
*Accession Number:* 20131025–5039
*Comments Due:* 5 p.m. ET 11/15/13

*Docket Numbers:* ER13–2289–001
*Applicants:* AEP Texas North Company
*Description:* TCC-TNC-South Texas EC Amd & Restated TSA Concurrence to be effective 8/8/2013.
*Filed Date:* 10/25/13
*Accession Number:* 20131025–5041
*Comments Due:* 5 p.m. ET 11/15/13

*Docket Numbers:* ER13–2290–001
*Applicants:* AEP Texas Central Company
*Description:* TCC-TNC-Texas New Mexico Power Company ERCOT TSA to be effective 8/8/2013.
*Filed Date:* 10/25/13
*Accession Number:* 20131025–5037
*Comments Due:* 5 p.m. ET 11/15/13

*Docket Numbers:* ER13–2291–001
*Applicants:* AEP Texas North Company
*Description:* TCC-TNC-Texas New Mexico Power Company ERCOT TSA Concurrence to be effective 8/8/2013.
*Filed Date:* 10/25/13
*Accession Number:* 20131025–5036
*Comments Due:* 5 p.m. ET 11/15/13

*Docket Numbers:* ER14–171–000
*Applicants:* Pacific Gas and Electric Company
*Description:* CCSF IA—43rd Quarterly Filing of Facilities Agreements to be effective 9/30/2013.
*Filed Date:* 10/24/13
*Accession Number:* 20131024–5127
*Comments Due:* 5 p.m. ET 11/14/13

*Docket Numbers:* ER14–177–000
*Applicants:* AES Huntington Beach, L.L.C.
*Description:* Request for Approval of Extension of Contract Term to be effective 1/1/2014.
*Filed Date:* 10/24/13
*Accession Number:* 20131024–5088
*Comments Due:* 5 p.m. ET 11/14/13

*Docket Numbers:* ER14–178–000
*Applicants:* Public Service Company of New Mexico
*Description:* OATT Revision: Complete to be effective 10/28/2013.
*Filed Date:* 10/25/13
*Accession Number:* 20131025–5000
*Comments Due:* 5 p.m. ET 11/15/13

*Docket Numbers:* ER14–179–000
*Applicants:* Pacific Gas and Electric Company
*Description:* Notice of Termination of Pacific Gas and Electric Company Rate Schedule No. 187 Power Scheduling Agreement with M–S–R Public Power Agency.
*Filed Date:* 10/24/13
*Accession Number:* 20131024–5124
*Comments Due:* 5 p.m. ET 11/14/13

*Docket Numbers:* ER14–180–000
*Applicants:* New York State Electric & Gas Corporation
*Description:* Bath Fairview Attachment C Annual Update to be effective 1/1/2014.
*Filed Date:* 10/25/13
*Accession Number:* 20131025–5058
*Comments Due:* 5 p.m. ET 11/15/13

*Docket Numbers:* ER14–181–000
*Applicants:* New York State Electric & Gas Corporation
*Description:* NYSEG–DCEC Attachment C Annual update to be effective 1/1/2014.
*Filed Date:* 10/25/13
*Accession Number:* 20131025–5059
*Comments Due:* 5 p.m. ET 11/15/13

*Docket Numbers:* ER14–182–000
*Applicants:* Portland General Electric Company
*Description:* Portland General Electric Company submits Compliance Filing for Order No. 784 to be effective 12/27/2013.
*Filed Date:* 10/25/13
*Accession Number:* 20131025–5070
*Comments Due:* 5 p.m. ET 11/15/13

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

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Dated: October 25, 2013.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2013–26094 Filed 10–31–13; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

**Filings Instituting Proceedings**

*Docket Numbers:* RP14–68–000 .

*Applicants:* Ozark Gas Transmission, L.L.C.
*Description:* BP Negotiated Rate 11–1–2013 to be effective 11/1/2013.
*Filed Date:* 10/24/13.
*Accession Number:* 20131024–5070.
*Comments Due:* 5 p.m. ET 11/5/13.

*Docket Numbers:* RP14–69–000.
*Applicants:* Transcontinental Gas Pipe Line Company.
*Description:* GSS LSS Tracker Filing 11–01–2013 to be effective 11/1/2013.
*Filed Date:* 10/24/13.
*Accession Number:* 20131024–5089.
*Comments Due:* 5 p.m. ET 11/5/13.

*Docket Numbers:* RP14–70–000.
*Applicants:* Rochester Gas and Electric Corporation, Allegany Generating Station LLC.
*Description:* Joint Petition of Rochester Gas and Electric Corporation and Allegany Generating Station LLC for Temporary Waiver of Capacity Release Regulations and Policies, and Request for Expedited Treatment.
*Filed Date:* 10/24/13.
*Accession Number:* 20131024–5123.
*Comments Due:* 5 p.m. ET 10/31/13.

*Docket Numbers:* RP14–71–000.
*Applicants:* Cheniere Creole Trail Pipeline, L.P.
*Description:* Compliance Filing to be effective 11/1/2013.
*Filed Date:* 10/25/13.
*Accession Number:* 20131025–5083.
*Comments Due:* 5 p.m. ET 11/6/13.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

**Filings in Existing Proceedings**

*Docket Numbers:* RP13–1348–001.
*Applicants:* National Fuel Gas Supply Corporation.
*Description:* Amendment-Appalachian Pooling Filing (RP13–1348) to be effective 12/1/2013.
*Filed Date:* 10/24/13.
*Accession Number:* 20131024–5071.
*Comments Due:* 5 p.m. ET 11/5/13.

*Docket Numbers:* RP14–31–001.
*Applicants:* Northwest Pipeline LLC.
*Description:* RP14–31–001 South Seattle Lateral Compliance Filing to be effective 11/1/2013.
*Filed Date:* 10/24/13.
*Accession Number:* 20131024–5102.
*Comments Due:* 5 p.m. ET 11/5/13.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: October 28, 2013.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2013–26095 Filed 10–31–13; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

**Filings Instituting Proceedings**

*Docket Numbers:* PR14–3–000.
*Applicants:* Regency Intrastate Gas LP.
*Description:* Tariff filing per 284.123/.224: Operating Statement of Regency Intrastate Gas LP Effective October 17, 2013 to be effective 10/17/2013.
*Filed Date:* 10/17/13.
*Accession Number:* 20131017–5116.
*Comments Due:* 5 p.m. ET 11/7/13.

*Docket Numbers:* PR14–4–000.
*Applicants:* NorthWestern Corporation.
*Description:* Tariff filing per 284.123(b)(1)/.: Revised Rate Schedules for Transportation and Storage Service—adjusted GTAC to be effective 9/20/2013.
*Filed Date:* 10/18/13.
*Accession Number:* 20131018–5047.
*Comments Due:* 5 p.m. ET 11/8/13.

*Docket Numbers:* RP14–65–000.
*Applicants:* Transcontinental Gas Pipe Line Company.
*Description:* GT&C Section 53 Negotiated Rates and Capacity Release to be effective 11/22/2013.
*Filed Date:* 10/22/13.
*Accession Number:* 20131022–5055.
*Comments Due:* 5 p.m. ET 11/4/13.

*Docket Numbers:* RP14–66–000.
*Applicants:* Natural Gas Pipeline Company of America.
*Description:* Negotiated Rate—J. Aron to be effective 11/1/2013.
*Filed Date:* 10/23/13.
*Accession Number:* 20131023–5059.
*Comments Due:* 5 p.m. ET 11/4/13.

*Docket Numbers:* RP14–67–000.
*Applicants:* Texas Eastern Transmission, LP.
*Description:* PCB TETLP DEC 2013 FILING to be effective 12/1/2013.
*Filed Date:* 10/23/13.
*Accession Number:* 20131023–5085.
*Comments Due:* 5 p.m. ET 11/4/13.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: October 24, 2013.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2013–26098 Filed 10–31–13; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket Nos. CP13–73–000; CP13–74–000]**

### Sierrita Gas Pipeline LLC; Notice of Availability of the Draft Environmental Impact Statement for the Proposed Sierrita Pipeline Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared a draft environmental impact statement (EIS) for the Sierrita Pipeline Project (Project), proposed by Sierrita Gas Pipeline LLC (Sierrita) in the above-referenced docket. Sierrita requests authorization to link El Paso Natural Gas Company's existing South Mainline System near Tucson to an interconnect with the Sásabe-Guaymas Pipeline at the U.S.-Mexico border near the town of Sasabe, Arizona.

The draft EIS assesses the potential environmental effects of the

construction and operation of the Project in accordance with the requirements of the National Environmental Policy Act (NEPA). The FERC staff concludes that approval of the Project would have some adverse environmental impacts; however, these impacts would be reduced to less-than-significant levels with the implementation of Sierrita's proposed mitigation and the additional measures recommended in the draft EIS.

The US Fish and Wildlife Service (FWS)—Arizona Ecological Services Office; the FWS—Buenos Aires National Wildlife Refuge; the Arizona Game and Fish Department; and the U.S. Customs and Border Protection participated as cooperating agencies in the preparation of the EIS. Cooperating agencies have jurisdiction by law or special expertise with respect to resources potentially affected by the proposal and participate in the NEPA analysis. Although the cooperating agencies provided input to the conclusions and recommendations presented in the draft EIS, the agencies will present their own conclusions and recommendations in their respective Records of Decision for the Project.

The draft EIS addresses the potential environmental effects of the construction and operation of the following Project facilities:

- Approximately 60.5 miles of 36-inch-diameter natural gas pipeline in Pima County, Arizona;
- two meter stations;
- two pig launchers and two pig receivers; [1] and
- six mainline valves.

The FERC staff mailed copies of the draft EIS to federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American tribes; potentially affected landowners and other interested individuals and groups; newspapers and libraries in the Project area; and parties to this proceeding. Paper copy versions of this EIS were mailed to those specifically requesting them; all others received a CD version. In addition, the draft EIS is available for public viewing on the FERC's Web site (*www.ferc.gov*) using the eLibrary link. A limited number of copies are available for distribution and public inspection at:

Federal Energy Regulatory Commission, Public Reference Room, 888 First Street NE., Room 2A, Washington, DC 20426, (202) 502–8371.

Any person wishing to comment on the draft EIS may do so. To ensure consideration of your comments on the proposal in the final EIS, it is important that the Commission receive your comments before December 16, 2013.

For your convenience, there are four methods you can use to submit your comments to the Commission. In all instances, please reference the Project docket numbers (CP13–73–000 and CP13–74–000) with your submission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or efiling@*ferc.gov.* Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the eComment feature on the Commission's Web site (*www.ferc.gov*) under the link to Documents and Filings. This is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the eFiling feature on the Commission's Web site (*www.ferc.gov*) under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''eRegister.'' If you are filing a comment on a particular project, please select ''Comment on a Filing'' as the filing type; or

(3) You can file a paper copy of your comments by mailing them to the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

(4) In lieu of sending written or electronic comments, the Commission invites you to attend one of the public comment meetings its staff will conduct in the Project area to receive comments on the draft EIS. We encourage interested groups and individuals to attend and present oral comments on the draft EIS. Transcripts of the meetings will be available for review in eLibrary under the Project docket number. The meetings are scheduled as follows:

| Date and time | Location |
|---|---|
| Thursday, December 12, 2013, 6:00 pm local time | Robles Elementary School Cafeteria, 9875 South Sasabe Road, Tucson, AZ 85735. |
| Saturday, December 14, 2013, 10:00 am local time [2] | San Fernando Elementary School, 1 Schoolhouse Drive, Sasabe, AZ 85633. |

Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR Part 385.214).[3] Only intervenors have the right to seek rehearing of the Commission's decision. The Commission grants affected landowners and others with environmental concerns intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which no other party can adequately represent. Simply filing environmental comments will not give you intervenor status, but you do not need intervenor status to have your comments considered.

**Questions?**

Additional information about the Project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site (*www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search,'' and enter the docket number excluding the last three digits in the Docket Number field (i.e., CP13–73 and CP13–74). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnline Support@ferc.gov* or toll free at (866) 208–3676; for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription that allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings

[1] A pig is an internal tool that can be used to clean and dry a pipeline and/or to inspect it for damage or corrosion.

[2] A Spanish-English translator will be provided at this meeting.

[3] See the previous discussion on the methods for filing comments.

by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/esubscribenow.htm.*

Dated: October 25, 2013.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2013–26030 Filed 10–31–13; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ID–7260–000]**

### Notice of Filing; Wyrsch, Martha B.

Take notice that on October 25, 2013, Martha B. Wyrsch submitted for filing, an application for authority to hold interlocking positions, pursuant to section 305(b) of the Federal Power Act (FPA), 16 U.S.C. 825d(b) and Part 45 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR part 45.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

*Comment Date:* 5:00 p.m. Eastern Time on November 15, 2013.

Dated: October 28, 2013.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2013–26097 Filed 10–31–13; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP14–6–000]**

### Questar Pipeline Company; Notice of Request Under Blanket Authorization

Take notice that on October 14, 2013, Questar Pipeline Company (Questar), 333 South State Street, Salt Lake City, Utah 84145, filed in Docket No. CP14–6–000, a prior notice request pursuant to sections 157.205 and 157.216 of the Commission's regulations under the Natural Gas Act. Questar seeks authorization to abandon in place its State Line Compressor and appurtenant facilities located in Moffat County, Colorado. Specifically, Questar proposes to abandon one Solar Saturn 1200 compressor, a compressor building, two generators and a generator building, a liquids storage tank, and other appurtenant facilities, Questar proposes to perform these activities under its blanket certificate issued in Docket No. CP82–491–000 [20 FERC ¶ 62,580 (1982)], all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The filing may also be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Any questions regarding this Application should be directed to L. Bradley Burton, General Manager, Federal Regulatory Affairs and FERC Compliance Officer, Questar Pipeline Company, 333 South State Street, Salt Lake City, Utah 84145, or by calling (801) 324–2459, or by email *brad.burton@questar.com.*

Any person may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention. Any person filing to intervene or the Commission's staff may, pursuant to section 157.205 of the Commission's Regulations under the NGA (18 CFR 157.205) file a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenter's will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with he Commission's environmental review process. Environmental commenter's will not be required to serve copies of filed documents on all other parties. However, the non-party commentary, will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the

Commission's Web site (*www.ferc.gov*) under the ''e-Filing'' link. Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Dated: October 25, 2013.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2013–26031 Filed 10–31–13; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP14–8–000]**

### Transwestern Pipeline Company, LLC; Notice of Request Under Blanket Authorization

Take notice that on October 16, 2013, Transwestern Pipeline Company, LLC (Transwestern), 1300 Main Street, Houston TX 77002, filed in Docket No. CP14–8–000, a prior notice request pursuant to sections 157.205 and 157.208 and 157.210 of the Commission's regulations under the Natural Gas Act (NGA). Transwestern seeks authorization to construct, own, operate, and maintain one refurbished 11,750 horsepower (hp) site-rated turbine, compressor, and ancillary facilities, including yard piping, at a new compressor station to be located in Maricopa County, Arizona. The proposed project will increase mainline capacity on Transwestern's Phoenix Lateral by 160 million cubic feet per day (MMcf/day). Transwestern proposes to perform these activities under its blanket certificate issued in Docket No. CP82–534–000 [21 FERC ¶ 62,190 (1982)] all as more fully set forth in the application, which is open to the public for inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Any questions regarding this application should be directed to Mr. Kelly Allen, Manager of Certificates and Reporting, Transwestern Pipeline Company, LLC, 1300 Main Street, Houston TX 77002, or by calling (713)–989–2606 (telephone) or (713)–989–1205 (fax) or by email *Kelly.Allen@energytransfer.com*.

Any person may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention. Any person filing to intervene or the Commission's staff may, pursuant to section 157.205 of the Commission's Regulations under the NGA (18 CFR 157.205) file a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*www.ferc.gov*) under the ''e-Filing'' link. Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Dated: October 25, 2013.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2013–26027 Filed 10–31–13; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Notice of Commissioner and Staff Attendance at North American Electric Reliability Corporation Meetings

The Federal Energy Regulatory Commission hereby gives notice that members of the Commission and/or Commission staff may attend the following meetings:

North American Electric Reliability Corporation
- Member Representatives Committee and Board of Trustees Meetings
- Board of Trustees Corporate Governance and Human Resources Committee, Compliance Committee, and Standards Oversight and Technology Committee Meetings

The Westin Buckhead Atlanta, 3391 Peachtree Road NE., Atlanta, GA 30326.

November 6 (7:00 a.m.–5:30 p.m.) and November 7 (8:00 a.m.–1:00 p.m.), 2013.

Further information regarding these meetings may be found at: *http://www.nerc.com/Pages/Calendar.aspx.*

The discussions at the meetings, which are open to the public, may address matters at issue in the following Commission proceedings:

Docket No. RC13–4, North American Electric Reliability Corporation

Docket No. RR13–9, North American Electric Reliability Corporation

Docket No. RR13–11, North American Electric Reliability Corporation

Docket No. RD13–9, North American Electric Reliability Corporation

Docket No. RD13–11, North American Electric Reliability Corporation

Docket No. RD13–12, North American Electric Reliability Corporation

For further information, please contact Jonathan First, 202–502–8529, or *jonathan.first@ferc.gov.*

Dated: October 25, 2013.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2013–26029 Filed 10–31–13; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER13–2124–000]**

### Midcontinent Independent System Operator, Inc.; Notice of Technical Conference

By order dated October 16, 2013, in Docket No. ER13–2124–000, the Federal Energy Regulatory Commission (Commission) directed staff to convene a technical conference regarding a proposal by Midcontinent Independent System Operator, Inc. (MISO) to modify the allocation of real-time Revenue Sufficiency Guarantee (RSG) costs.[1] In its order, the Commission accepted and suspended for five months MISO's filing, subject to the outcome of the technical conference and further Commission order.

Take notice that such conference will be held on November 19, 2013, at the Commission's headquarters at 888 First Street NE., Washington, DC 20426, beginning at 9:00 a.m. (Eastern Time) in Hearing Room 6. The technical conference will be led by Commission staff.

The purpose of the technical conference is to discuss the issues raised by MISO's proposed revisions to its real-time RSG cost allocation methodology. A subsequent notice detailing the topics to be discussed will be issued in advance of the conference. Following the conference, the parties will have an opportunity to file written comments that will be included in the formal record of the proceeding, which, together with the record developed to date, will form the basis for further Commission action.

FERC conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an email to *accessibility@ferc.gov* or call toll free 1–866–208–3372 (voice) or 202–208–8659 (TTY); or send a fax to 202–208–2106 with the required accommodations.

All parties are permitted to attend. For more information on this conference, please contact Cristie DeVoss at *cristie.devoss@ferc.gov* or 202–502–8441, or Melissa Nimit at *melissa.nimit@ferc.gov* or 202–502–6638.

Dated: October 25, 2013.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2013–26028 Filed 10–31–13; 8:45 am]

**BILLING CODE 6717–01–P**

[1] *Midcontinent Indep. Sys. Operator, Inc.,* 145 FERC ¶ 61,044 (2013).

## DEPARTMENT OF ENERGY

### Western Area Power Administration

### Recommendation From the Western Area Power Administration To Pursue Regional Transmission Organization Membership

**AGENCY:** Western Area Power Administration, DOE.

**ACTION:** Notice of Western Area Power Administration Recommendation to Pursue Regional Transmission Organization Membership.

**SUMMARY:** Western Area Power Administration (Western), Upper Great Plains Region (Western-UGP), a power marketing administration (PMA) of the Department of Energy (DOE), is publishing a recommendation to pursue formal negotiations with the Southwest Power Pool (SPP), a Regional Transmission Organization (RTO), concerning membership. Western is seeking public comment from Western's customers, Tribes, stakeholders, and the public at large. A decision to pursue implementation of the recommendation will be posted to Western's Web site.

**DATES:** To ensure consideration, all comments should be received by Western at the address below on or before 4 p.m. MST December 16, 2013. Western will present a detailed explanation of the recommendation and listen to customer and stakeholder comments in Lincoln, Nebraska, Sioux Falls, South Dakota, and Moorhead, Minnesota, or Fargo, North Dakota. The specific times and locations of these forums will be posted on Western's Web site at *http://www.wapa.gov/ugp/powermarketing/AlternateOperationsStudy/AOS.htm.*

The information gathered and analyzed by Western subject matter experts, combined with stakeholder comments, detailed discussions with the Midcontinent Independent System Operator (MISO), and the SPP, formed the basis of the recommendation that is now being published for comment. A decision to pursue the recommendation will be informed by comments received in response to this Notice.

**ADDRESSES:** Send written comments to Western at: *AOS@wapa.gov.* Information regarding the recommendation, including comments, letters, and other supporting documents made or retained by Western are for the purpose of pursuing this recommendation. Comments may also be delivered by mail to: Upper Great Plains Region, Western Area Power Administration, 2900 4th Avenue North, Billings, MT 59101–1266.

**FOR FURTHER INFORMATION CONTACT:** Jody S. Sundsted, Power Marketing Manager, Upper Great Plains Region, Western Area Power Administration, 2900 4th Avenue North, Billings, MT 59101–1266, telephone (406) 255–2910, email *sundsted@wapa.gov.*

**SUPPLEMENTARY INFORMATION:** Western-UGP markets Pick-Sloan Missouri Basin Program—Eastern Division (P–SMBP–ED) hydroelectric power and energy to preference entities in Montana east of the continental divide, North and South Dakota, western Minnesota and Iowa, and eastern Nebraska. In 1998, Western-UGP, Basin Electric Power Cooperative, and Heartland Consumers Power District implemented the Integrated Transmission System (IS). The IS includes approximately 9,848 miles of transmission lines owned by Basin Electric Power Cooperative, Heartland Consumers Power District, and Western. Transmission service over the IS is provided under Western's Open Access Transmission Tariff, with Western-UGP serving as tariff administrator for the IS. Prior to the IS, the Joint Transmission System (JTS) was formed and documented in the Missouri Basin Systems Group (MBSG) Pooling Agreement dated January 31, 1963. The IS comprises transmission facilities located on both the eastern and western electrical interconnected systems separated by the Miles City DC tie and the Fort Peck Power Plant. Western-UGP also operates two balancing authority areas, WAUW and WAUE, within the IS that are also separated by the Miles City DC Tie and the Fort Peck Power Plant.

#### RTO History

RTOs are not a new concept within the utility industry. The concept of joint planning, joint power supply, cost sharing, and in some cases, joint transmission, has occurred for decades between utilities with a common mission and goal. In Western-UGP, the roots of RTO-like agreements can be traced back to the January 31, 1963, MBSG Pooling Agreement that was signed by the Assistant Secretary of the Interior and 105 utility systems across six states, for participation in the Federal transmission system. This agreement established the JTS, now

known as the IS, to plan, build, operate, and maintain a joint transmission system.

Subsequent to the creation of the MBSG and JTS, Western's predecessor, the Bureau of Reclamation, also became a member of the Mid-Continent Area Power Pool (MAPP). MAPP was another entity formed to promote power pooling, transmission planning, reliability, and reserve pooling. Certain MAPP members, including Western-UGP, were later involved in RTO creation efforts, including a study from 2000 through 2004 for creation of the Crescent Moon RTO. This was closely followed by another study effort from 2006 through 2008 known as the Mid-Continent Systems Group. In 2008–2009, the IS owners and MISO jointly developed a new type of tariff service (Module F) that would have allowed the IS owners to place their generation and loads into the MISO organized market but keep the IS transmission system assets out of MISO. Ultimately, the Federal Energy Regulatory Commission rejected these tariff changes. During the 2008 to 2009 timeframe, many of the original MAPP Generation Reserve Sharing Pool members merged with MISO to share contingency reserves and formed the Midwest Reserve Sharing Group (MRSG). In 2009, the MRSG was renewing the sharing agreement and Western-UGP terminated its participation in the MRSG agreement for economic reasons. Prior to leaving MRSG, the IS owners were aware that providing contingency reserves on a stand-alone basis would have been cost prohibitive and began discussions with SPP to participate in SPP's reserve sharing group. Western-UGP then entered into a limited-term agreement with the SPP reserve sharing group effective with the termination of the MRSG agreement.

**Market to Non-Market Challenges**

Approximately 50 percent of Western-UGP's preference load is beyond the edge of the IS and delivered across third-party transmission systems in the MISO and the SPP predominately under arrangements made by those preference customers. This separation creates market to non-market seams between Western-UGP, MISO, and SPP and impacts both Western-UGP's and other local utilities' marketing of power across the seams. To address certain transmission congestion in the MISO and SPP footprints, the reliability coordinator cuts power schedules in and out of those RTOs under Transmission Loading Relief (TLR) protocols in addition to re-dispatching generation within its footprint. Western-UGP has experienced many TLR schedule cuts on short-term sales and purchases, as well as firm power schedules necessary to meet its obligations. Western-UGP has few options to avoid TLRs. These TLR impacts are directly related to Western-UGP and the IS owners' unique footprint in relation to energy markets. In addition to the MISO and SPP seams on the east and south, Western-UGP is constrained by limited access to the Canadian markets to the north, as well as to western markets, due to limitations of available capacity for energy transfers through the AC–DC–AC interconnection ties. Historically, Western-UGP has had opportunities to sell and purchase short-term energy from many different entities in response to hydro-generation variability. However, with entities joining MISO and its organized energy market, Western-UGP has seen those opportunities decrease significantly. With the SPP Integrated Marketplace planned to become operational in 2014, Western-UGP anticipates substantial reduction in bi-lateral short-term energy trading opportunities. Western-UGP recognizes the variability of the hydro-generation and the historic need Western-UGP has had for access to energy markets to realize the lowest cost energy purchases and optimized short-term energy sales. As a result, Western-UGP has performed an assessment of the costs, benefits, and risks of alternative operating models while continuing to reliably serve our firm power commitments.

**The Alternative Operations Study (AOS)**

For purposes of this assessment, Western is considering placing only the portion of the IS located in the eastern electrical interconnected system within an RTO market. The options for future operating models analyzed included a Stand Alone configuration, Join MISO, and Join SPP.

The Cost/Benefit Analysis (CBA) for this study measured and compared six criteria in each of the three options.

1. RTO Trade Benefit
2. Administrative Costs
3. Transmission Expansion
4. Capacity Benefits
5. IS Transmission Revenue—Cost Shifts
6. Drive-Out Impacts

There were significant monetary separations in the CBA results. The CBA results have shown the Join SPP option provides more benefits than the other two options.

Qualitative risks were analyzed through the use of a Multi-Criteria Decision Analysis (MCDA) tool. The MCDA uses marketing plan and rate stability, and agreements as major criteria to assess the options with multiple metrics for each. Weight factors were assigned to each of the criteria and each of the metrics based on the relative importance of the criterion or metric to the overall decision. Each metric was rated according to the qualitative scale to determine the appropriate risk rating, and the risk score associated with each option was subsequently developed through application of the weighting of the risk. The risk score for the Join SPP option was the lowest and, therefore, the most favorable option from a qualitative risk standpoint. Further information regarding the CBA and the MCDA can be found in the recommendation documents referenced in the Availability of Information section below.

Based on the analysis performed, Western-UGP concluded that the potential benefits of the Join SPP option are significant enough for Western-UGP to solicit feedback from customers and other stakeholders regarding its recommendation to pursue formal negotiations with SPP regarding membership. Timing considerations are such that these actions should proceed quickly.

The information gathered and analyzed by Western subject matter experts, combined with stakeholder comments, formed the basis of the recommendation that is now being published for review. A decision to pursue the recommendation will be informed by comments received in response to this notice. A decision by Western to move forward with formal negotiations with SPP will result in detailed membership discussions consistent with Western-UGP statutory requirements as captured in the AOS assumptions. Western's Administrator has been designated as the appropriate Federal regulatory authority with respect to transmission facilities within the PSMBP–ED in accordance with Section 1232(a)(1)(A) of the Energy Policy Act of 2005, codified at 42 U.S.C. 16431.

**Availability of Information**

The recommendation is available for review and comment on Western's Web site at *http://www.wapa.gov/ugp/powermarketing/AlternateOperationsStudy/AOS.htm.* The recommendation and supporting documents contain information that pertains only to Western-UGP. Western is seeking comments on the substance of the recommendation and its proposal to

pursue the Join SPP option. Comments submitted in response to this notice should include the following information:

1. Name and general description of the entity submitting the comment.
2. Name, mailing address, telephone number, and email address of the entity's primary contact.
3. Identification of any specific recommendation the comment references.

**Environmental Compliance**

In compliance with the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321–4347), Council on Environmental Quality regulations (40 CFR parts 1500–1508), and DOE NEPA regulations (10 CFR part 1021), Western is in the process of determining whether an environmental assessment or an environmental impact statement should be prepared or if this action can be categorically excluded from those requirements. Further environmental review actions will be posted to *http://www.wapa.gov/ugp/Environment/default.htm.*

Dated: October 29, 2013.

**Mark A. Gabriel,**

*Administrator.*

[FR Doc. 2013–26079 Filed 10–31–13; 8:45 am]

**BILLING CODE 6450–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[ER–FRL–9011–7]**

## Environmental Impact Statements; Notice of Availability

*Responsible Agency:* Office of Federal Activities, General Information (202) 564–7146 or *http://www.epa.gov/compliance/nepa/.*

Weekly receipt of Environmental Impact Statements

Filed 10/21/2013 Through 10/25/2013

Pursuant to 40 CFR 1506.9.

**Notice**

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *http://www.epa.gov/compliance/nepa/eisdata.html.*

*EIS No. 20130306, Second Final EIS, USCG, 00*, Tiering FEIS—U.S. Coast Guard Rulemaking for Dry Cargo Residue Discharges in the Great Lakes, Review Period Ends: 12/02/2013, Contact: Timothy P. O'Brien 202–372–1539.

*EIS No. 20130307, Final EIS, BLM, WY*, Gas Hills In-Situ Recovery Uranium Project, Review Period Ends: 12/02/2013, Contact: Tom Sunderland 307–332–8400.

*EIS No. 20130308, Draft EIS, USACE, NC*, Morehead City Harbor Integrated Dredged Material Management Plan, Port of Morehead City, Comment Period Ends: 12/16/2013, Contact: Hugh Heine 910–251–4070.

*EIS No. 20130309, Draft EIS, DOE, NY*, Champlain Hudson Power Express Transmission Line Project, Comment Period Ends: 12/16/2013, Contact: Brian Mills 202–586–8267.

*EIS No. 20130310, Draft EIS, BLM, UT*, Utah Greater Sage-Grouse Draft Land Use Plan Amendment, Comment Period Ends: 01/29/2014, Contact: Quincy Bahr 801–539–4122.

*EIS No. 20130311, Draft EIS, BLM, NV*, Nevada and Northeastern California Greater Sage-Grouse Planning, Comment Period Ends: 01/29/2014, Contact: Joe Tague 775–861–6556.

The U.S. Department of the Interior's Bureau of Land Management and the U.S. Department of Agriculture's Forest Service are Joint Lead Agencies for the above project.

*EIS No. 20130312, Draft EIS, BLM, ID*, Idaho and Southwestern Montana Greater Sage-Grouse Draft Land Use Plan, Comment Period Ends: 01/29/2014, Contact: Brent Ralston 208–373–3812.

*EIS No. 20130313, Draft EIS, USFS, ID*, Lost Creek-Boulder Creek Landscape Restoration Project, Comment Period Ends: 12/16/2013, Contact: Holly Hutchinson 208–347–0325.

*EIS No. 20130314, Final EIS, DOE, IL*, FutureGen 2.0 Project, Review Period Ends: 12/02/2013, Contact: Cliff Whyte 304–285–2098.

*EIS No. 20130315, Draft EIS, FERC, AZ*, Sierrita Pipeline Project, Comment Period Ends: 12/16/2013, Contact: David Hanobic 202–502–8312.

*EIS No. 20130316, Final EIS, NPS, CA*, Restoration of the Mariposa Grove of Giant Sequoias, Review Period Ends: 12/02/2013, Contact: Kimball Koch 209–379–1364.

*EIS No. 20130317, Draft Supplement, USACE, NC*, NC–1409 (Military Cutoff Road) Extension and Proposed US 17 Hampstead Bypass, Comment Period Ends: 12/16/2013, Contact: Brad Shaver 910–251–4611.

**Amended Notices**

*EIS No. 20130221, Draft Supplement, BLM, CA*, Palen Solar Electrical Generating System, Comment Period Ends: 11/14/2013, Contact: Frank McMenimen 760–833–7150.

Revision to FR Notice Published 07/26/2013; Extending Comment Period from 10/24/2013 to 11/14/2013.

*EIS No. 20130260, Draft EIS, BIA, NV*, Moapa Solar Energy Center, Comment Period Ends: 11/12/2013, Contact: Amy Heuslein 602–379–6750.

Revision to FR Notice Published 09/13/2013; Extending Comment Period from 10/21/2013 to 11/12/2013.

*EIS No. 20130261, Draft Supplement, NPS, CA*, Golden Gate National Recreation Area Draft Dog Management Plan, Comment Period Ends: 01/13/2014, Contact: Michael B. Edwards 303–969–2694.

Revision to FR Notice Published 09/06/2013; Extending Comment Period from 12/04/2013 to 01/11/2014.

*EIS No. 20130266, Draft EIS, USN, GU*, The Mariana Islands Training and Testing, Comment Period Ends: 12/06/2013, Contact: John Van Name 808–471–1714.

Revision to FR Notice Published 10/25/2013; Extending Comment Period from 11/12/2013 to 12/12/2013.

*EIS No. 20130269, Draft EIS, NRC, 00*, Generic—Waste Confidence, Comment Period Ends: 12/20/2013, Contact: Sarah Lopas 301–287–0675.

Revision to FR Notice Published 09/13/2013; Extending Comment Period from 11/27/2013 to 12/20/2013.

*EIS No. 20130277, Final Supplement, BLM, NV*, Silver State Solar South Project Proposed Resource Management Plan Amendment, Review Period Ends: 11/06/2013, Contact: Nancy Christ 702–515–5136.

Revision to FR Notice Published 09/20/2013; Extending Comment Period from 10/21/2013 to 11/06/2013.

*EIS No. 20130280, Draft EIS, BLM, NV*, 3 Bars Ecosystem and Landscape Restoration Project, Comment Period Ends: 11/29/2013, Contact: Chad Lewis 775–635–4000.

Revision to FR Notice Published 09/27/2013; Extending Comment Period from 11/12/2013 to 11/29/2013.

*EIS No. 20130284, Draft Supplement, GSA, CA*, San Ysidro Land Port of Entry Improvements Project, Comment Period Ends: 11/29/2013, Contact: Osmahn Kadri 415–522–3617.

Revision to the FR Notice Published 09/27/2013; Extending Comment Period from 11/12/2013 to 11/29/2013.

*EIS No. 20130290, Draft EIS, NPS, CA*, Restoration of Native Species in High Elevation Aquatic Ecosystems Plan, Sequoia and Kings Canyon National Parks, Comment Period Ends: 12/17/

2013, Contact: Woodrow Smeck 559–565–3101.

Revision to FR Notice Published 10/04/2013; Extending Comment Period from 11/25/2013 to 12/17/2013.

Dated: October 29, 2013.

**Aimee Hessert,**

*Deputy Director, NEPA Compliance Division, Office of Federal Activities.*

[FR Doc. 2013–26132 Filed 10–31–13; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–9902–35–OA]**

### Notice of Meeting of the EPA's Children's Health Protection Advisory Committee (CHPAC)

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of meeting.

**SUMMARY:** Pursuant to the provisions of the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the next meeting of the Children's Health Protection Advisory Committee (CHPAC) will be held November 13 and 14, 2013 at National Archives Museum (700 Pennsylvania Avenue NW., Washington, DC 20408). The CHPAC was created to advise the Environmental Protection Agency on science, regulations, and other issues relating to children's environmental health.

**DATES:** The CHPAC will meet November 13 and 14, 2013.

**ADDRESSES:** 700 Pennsylvania Avenue NW., Washington, DC 20408

**FOR FURTHER INFORMATION CONTACT:** Martha Berger, Office of Children's Health Protection, USEPA, MC 1107A, 1200 Pennsylvania Avenue NW., Washington, DC 20460, (202) 564–2191 or *berger.martha@epa.gov*.

**SUPPLEMENTARY INFORMATION:** The meetings of the CHPAC are open to the public. The CHPAC will meet on November 13 from 1:00 p.m. to 5:00 p.m., and November 14 from 9:00 a.m. to 4:00 p.m. Agenda will be posted at epa.gov/children. *Access and Accommodations:* For information on access or services for individuals with disabilities, please contact Martha Berger at 202–564–2191 or *berger.martha@epa.gov.*

Dated: October 23, 2013.

**Martha Berger,**

*Designated Federal Official.*

[FR Doc. 2013–26161 Filed 10–31–13; 8:45 am]

**BILLING CODE 6560–50–P**

## FEDERAL HOUSING FINANCE AGENCY

**[No. 2013–N–14]**

### Privacy Act of 1974; System of Records

**AGENCY:** Office of Inspector General, Federal Housing Finance Agency.

**ACTION:** Notice of the creation of a new Privacy Act System of Records for the Office of Evaluations, the addition of a routine use for the Office of Audits' System of Records, and technical revisions to the existing systems of records.

**SUMMARY:** In accordance with the Privacy Act of 1974, as amended, the Office of Inspector General of the Federal Housing Finance Agency (FHFA–OIG) gives notice of the creation of a new Privacy Act system of records (SOR) for the Office of Evaluations (OE) and of a new routine use for the Office of Audits' (OA) SOR, and of technical revisions to the existing SORs. The new SOR for OE, the additional routine use for OA's SOR, and the other technical changes are described in detail below.

**DATES:** Comments must be received on or before December 2, 2013. The proposed new SOR for OE, the additional routine use for OA, and the technical revisions to the existing SORs will become effective without further notice on December 11, 2013, unless comments received on or before that date result in revisions to this notice.

**ADDRESSES:** Submit comments to FHFA *only once,* identified by ''FHFA–OIG SORN,'' using any one of the following methods:

- *Email: Bryan.Saddler@fhfaoig.gov.* Comments may be sent by email to Bryan Saddler, FHFA–OIG Chief Counsel. Please include ''Comments/FHFA–OIG SORN'' in the subject line of the message. Comments will be made available for inspection upon written request.
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. If you submit your comment to the Federal eRulemaking Portal, please also send it by email to FHFA at *Bryan.Saddler@fhfaoig.gov* to ensure timely receipt by the agency. Please include ''Comments/FHFA–OIG SORN'' in the subject line of the message.
- *U.S. Mail, United Parcel Service, Federal Express, or Other Mail Service:* Bryan Saddler, Chief Counsel, Office of Inspector General, Federal Housing Finance Agency, 400 7th Street SW., Washington, DC 20024.
- *Courier/Hand Delivered Letters or Packages:* For security reasons, courier/hand delivered letters or packages cannot be accepted.

See **SUPPLEMENTARY INFORMATION** for additional information on posting of comments.

**FOR FURTHER INFORMATION CONTACT:** Bryan Saddler, Chief Counsel, Office of Inspector General, Federal Housing Finance Agency, 400 7th Street SW., Washington, DC 20024, or at (202) 730–2824. The telephone number for the Telecommunications Device for the Deaf is (202) 245–5619.

**SUPPLEMENTARY INFORMATION:**

#### I. Comments

*Posting and Public Availability of Comments:* All comments received will be posted without change on the FHFA–OIG Web site at *http://www.fhfaoig.gov,* and will include any personal information provided, such as name, address (mailing and email), and telephone numbers.

#### II. Background

The Federal Housing Finance Regulatory Reform Act of 2008 (Reform Act), which was passed as Division A of the Housing and Economic Recovery Act of 2008 (HERA), Public Law 110–289, 122 Stat. 2654, 2913, abolished both the Federal Housing Finance Board (FHFB), an independent agency that oversaw the Federal Home Loan Banks (FHLBanks), and the Office of Federal Housing Enterprise Oversight (OFHEO), an office within the Department of Housing and Urban Development (HUD) that oversaw the ''safety and soundness'' of the Federal Home Loan Mortgage Corporation (Freddie Mac) and the Federal National Mortgage Association (Fannie Mae). *See* 12 U.S.C. 1422a, 4502(6), 4511, 4512, 4513, 4541, 4563 (2006); H.R. Rep. No. 110–142, at 95. The Reform Act established in place of the FHFB and OFHEO a new entity, the Federal Housing Finance Agency (FHFA), which now regulates and supervises Fannie Mae, Freddie Mac, and the 12 FHLBanks. *See* Reform Act sections 1002, 1101, 1102 and 1311; 12 U.S.C. 4511(2009).

Section 1105 of HERA also amended the Inspector General Act of 1978 (the IG Act), by specifying that there shall be established an Inspector General within FHFA (FHFA–OIG). *See* 12 U.S.C. 4517(d). FHFA–OIG is responsible for, among other things, conducting audits, investigations, and evaluations of FHFA's programs and operations; recommending policies that promote economy and efficiency in the administration of FHFA's programs and operations; and preventing and

detecting fraud and abuse in FHFA's programs and operations.

On March 2, 2011, FHFA–OIG issued a **Federal Register** notice establishing five SORs, with the goal of making them reflective of the types of records kept by FHFA–OIG. *See* 76 FR 11465. The 2011 notice established the following SORs:

FHFA–OIG–1: FHFA–OIG Audit Files Database.

FHFA–OIG–2: FHFA–OIG Investigative & Evaluative Files Database.

FHFA–OIG–3: FHFA–OIG Investigative & Evaluative MIS Database.

FHFA–OIG–4: FHFA–OIG Hotline Database.

FHFA–OIG–5: FHFA–OIG Correspondence Database.

When the five SORs were adopted it was thought that OE would be a companion group to the Office of Investigations (OI). Thus, its SOR was joined with OI's SORs. In practice, however, OE has become its own independent component, and the types of records it maintains are different from those kept by OI. As a result, the first change made by the instant notice is the creation of a separate SOR for OE.

The second change being made is the creation of an additional routine use for the OA SOR so that the routine uses contained therein are the same as OE's. Although the work conducted by OE and OA typically focuses on the efficiency of practices and procedures as opposed to individuals, there is the potential that under certain circumstances it may be necessary for FHFA–OIG to release otherwise protected information in order to convey an accurate and meaningful understanding of the findings included in a report required by the IG Act. For example, if an individual's title has particular significance to the findings (*e.g.,* if the audit or evaluation concerns personnel procedures and the head of personnel has taken or failed to take certain actions that have uniquely contributed to fraud, waste, or abuse), in the interest of transparency and full disclosure, FHFA–OIG may deem it necessary to release the individual's title.

Finally, to ensure that FHFA–OIG's SORs accurately describe the records FHFA–OIG currently keeps and the functions for which they are routinely used, the existing SORs are being amended, revised, updated, and/or modified.

Sections 552a(e)(4) and (11) of title 5, United States Code, require that an agency publish a notice of the establishment or revision of a SOR which affords the public a 30-day period in which to submit comments. To meet this requirement, changes proposed for FHFA–OIG's SORs are set forth in their entirety below. Further, a report of FHFA–OIG's intention to establish a SOR for OE, add a routine use for OA's SOR, and make technical changes to the remaining existing SORs has been submitted to the Committee on Oversight and Government Reform of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and to the Office of Management and Budget (OMB), pursuant to paragraph 4c of Appendix I of OMB Circular A–130, which is entitled ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996 (61 FR 6427, 6435 (February 20, 1996)).

## III. Proposed System of Records

The proposed changes to the existing SORs, and the proposed new SOR are described in detail below:

*FHFA–OIG–1*

The existing SOR entitled FHFA–OIG Audit Files Database, published at 76 FR 11465 (March 2, 2011), is being amended to create a fourteenth routine use and to update the system location, retention and disposal schedules, FHFA–OIG's address, and the exemptions claimed.

Thus, the following changes are being made:

1. The ''routine uses of records maintained in the system, including categories of users and the purposes of such uses'' section is being amended to add: ''(14) Disclose information that if withheld would tend to diminish or interfere with the comprehension of the significance of or nuances contained in the findings in any and all reports issued in compliance with requirements of the Inspector General Act of 1978 (5 U.S.C. App. 3), as amended.''

2. The ''system location'' section is being amended by removing ''This system of records is located on a computer system owned and administered by FHFA. FHFA–OIG may transfer this system of records to a stand-alone, physically secure FHFA–OIG computer system'' and replacing it with ''This system of records is located on a computer system that is managed and administered by NASA–OIG.''

3. The ''retention and disposal'' section is being amended by removing ''(1) Audit Reports File (N1–485–08–2, item 17), which provides for annual cut-off and for destruction 10 years after cut-off; and (2) Audit Workpapers (N1–485–08–2, item 2), which provides for annual cut-off and for destruction 6 years and 3 months after cut-off'' and replacing it with ''FHFA's Comprehensive Records Schedule Item 7.1 (N1–543–11–1, approved 01/11/2013), which provides the cut-off and disposition schedule for audit records.''

4. The ''system manager(s) and address'' section will be amended by removing ''1625 Eye Street NW., Washington, DC 20006'' and replacing it with ''400 7th Street SW., Washington, DC 20024.''

5. The ''exemptions claimed for the system'' section will be amended to reflect those records that FHFA specifically exempted when it implemented 5 U.S.C. 552a(j)(2) and (k)(2), *see* 77 FR 4645 (January 31, 2012) which is codified at 12 CFR 1204.7(c). Consequently, the following language: ''Some records contained within this system of records are exempt from 5 U.S.C. 552a(c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2) and (k)(2). FHFA is in the process of publishing an updated Privacy Act regulation at 12 CFR part 1204 that will implement (j)(2) and (k)(2) exemptions to cover FHFA–OIG records. Upon publication of this revised Privacy Act Regulation, these exemptions are hereby incorporated by reference and are an integral part of this SORN'' will be removed and replaced with ''Some records contained within this system of records are exempt from 5 U.S.C. 552a(c)(3), (d)(1), (d)(2), (e)(1), (e)(2), (e)(3), of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2) and (k)(2), *see* 12 CFR 1204.7(c), implementing the exemptions in 5 U.S.C. 552a(j)(2) and (k)(2) for FHFA–OIG records. These exemptions are hereby incorporated by reference and are an integral part of this SORN.''

*FHFA–OIG–2*

The existing SOR entitled, FHFA–OIG Investigative & Evaluative Files Database, published at 76 FR 11465 (March 2, 2011), is being amended to eliminate all references to ''evaluative,'' ''evaluations,'' and the ''Evaluations Division'' and to update the system location, retention and disposal schedules, FHFA–OIG's address, and the exemptions claimed.

Thus, the following changes are being made:

1. The ''system name'' section is being amended by removing ''FHFA–OIG Investigative & Evaluative Files Database'' and replacing it with ''FHFA–OIG Investigative Files Database.''

2. The ''categories of individuals covered by the system'' section is being amended by removing ''Subjects or potential subjects of investigative or

evaluative activities; witnesses involved in investigative or evaluative activities'' and replacing it with ''Subjects or potential subjects of investigative activities; witnesses involved in investigative activities.''

3. The ''categories of records in the system'' section is being amended by replacing ''(13) other documents collected and/or generated by the Investigations Division and/or the Evaluations Division during the course of official duties'' with ''(13) other documents collected and/or generated by the Investigations Division during the course of official duties.''

4. The ''purpose(s)'' section is being amended by removing ''The purpose of this system of records is to maintain information relevant to complaints received by FHFA–OIG and collected as part of investigations conducted by FHFA–OIG's Investigations Division and/or evaluations conducted by FHFA–OIG's Evaluations Division'' and replacing it with ''The purpose of this system of records is to maintain information relevant to complaints received by FHFA–OIG and collected as part of investigations conducted by FHFA–OIG's Investigations Division.''

5. The ''system location'' section is being amended by removing ''This system of records is located on a computer system owned and administered by FHFA. FHFA–OIG may transfer this system of records to a stand-alone, physically secure FHFA–OIG computer system'' and replacing it with ''This system of records is managed and administered by NASA–OIG.''

6. The ''retention and disposal'' section is being amended by removing ''(1) Chronological File (N1–485–08–2, Item 5), which provides for annual cut-off and for destruction 5 years after cut-off; (2) Inspector General Community Operational Guidance (N1–485–08–2, Item 16), which provides for annual cut-off and for destruction 3 years after cut-off; (3) Grand Jury (6e) Files (N1–485–08–2, Item 14), which provides for cut-off when case is closed, then retention in a segregated, locked file for 20 years thereafter; (4) Investigation Case Files (N1–485–94–1, Item 3.8), which provides for cutting off inactive files at the end of the fiscal year, and for destruction 10 years after cut-off; (5) Non-FHFA Offices' Correspondence (GRS 23, item 1), which permits destruction after 2 years; and (6) FHFA Offices' Correspondence (N1–485–94–1, Item 3.6), which provides for annual cut-off, and for destruction when no longer needed'' and replacing it with ''(1) FHFA's Comprehensive Records Schedule Item 7.2(a) (N1–543–11–1, approved 01/11/2013), which provides the cut-off and disposition schedule for significant investigative case records; and (2) Item 7.2(b), which provides the cut-off and disposition schedule for all other investigative case records.''

7. The ''system manager(s) and address'' section will be amended by removing ''1625 Eye Street NW., Washington, DC 20006'' and replacing it with ''400 7th Street, SW., Washington, DC 20024.''

8. The ''exemptions claimed for the system'' section will be amended to reflect those records that FHFA specifically exempted when it implemented 5 U.S.C. 552a(j)(2) and (k)(2), *see* 77 FR 4645 (January 31, 2012) which is codified at 12 CFR 1204.7(c). Consequently, the following language: ''Some records contained within this system of records are exempt from 5 U.S.C. 552a(c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2) and (k)(2). FHFA is in the process of publishing an updated Privacy Act regulation at 12 CFR part 1204 that will implement (j)(2) and (k)(2) exemptions to cover FHFA–OIG records. Upon publication of this revised Privacy Act Regulation, these exemptions are hereby incorporated by reference and are an integral part of this SORN'' will be removed and be replaced with ''Some records contained within this system of records are exempt from 5 U.S.C. 552a(c)(3), (d)(1), (d)(2), (e)(1), (e)(2), (e)(3), of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2) and (k)(2), *see* 12 CFR 1204.7(c), implementing the exemptions in 5 U.S.C. 552a(j)(2) and (k)(2) for FHFA–OIG records. These exemptions are hereby incorporated by reference and are an integral part of this SORN.''

*FHFA–OIG–3*

The existing SOR entitled, FHFA–OIG Investigative & Evaluative MIS Database, published at 76 FR 11465 (March 2, 2011), is being amended to eliminate all references to ''evaluative,'' ''evaluations,'' and the ''Evaluations Division'' and to update the system location, retention and disposal schedules, FHFA–OIG's address, and the exemptions claimed.

Thus, the following changes are being made:

1. The ''system name'' section is being amended by removing ''FHFA–OIG Investigative & Evaluative MIS Database'' and replacing it with ''FHFA–OIG Investigative MIS Database.''

2. The ''categories of individuals covered by the system'' section is being amended by removing ''Subjects or potential subjects of investigative or evaluative activities; witnesses involved in investigative or evaluative activities'' and replacing it with ''Subjects or potential subjects of investigative activities; witnesses involved in investigative activities.''

3. The ''categories of records in the system'' section is being amended by replacing ''(13) other documents collected and/or generated by the Investigations Division and/or the Evaluations Division during the course of official duties'' and replacing it with ''(13) other documents collected and/or generated by the Investigations Division during the course of official duties.''

4. The ''purpose(s)'' section is being amended by removing ''The purpose of this system of records is to maintain information relevant to complaints received by FHFA–OIG and collected as part of investigations conducted by FHFA–OIG's Investigations Division and/or evaluations conducted by FHFA–OIG's Evaluations Division'' and replacing it with ''The purpose of this system of records is to maintain information relevant to complaints received by FHFA–OIG and collected as part of investigations conducted by FHFA–OIG's Investigations Division.''

5. The ''system location'' section is being amended by removing ''This system of records is located on a computer system owned and administered by FHFA. FHFA–OIG may transfer this system of records to a stand-alone, physically secure FHFA–OIG computer system'' and replacing it with ''This system of records is managed and administered by Microsoft/Office365.''

6. The ''retention and disposal'' section is being amended by removing ''(1) Chronological File (N1–485–08–2, Item 5), which provides for annual cut-off and for destruction 5 years after cut-off; (2) Inspector General Community Operational Guidance (N1–485–08–2, Item 16), which provides for annual cut-off and for destruction 3 years after cut-off; (3) Grand Jury (6e) Files (N1–485–08–2, Item 14), which provides for cut-off when case is closed, then retention in a segregated, locked file for 20 years thereafter; (4) Investigation Case Files (N1–485–94–1, Item 3.8), which provides for cutting off inactive files at the end of the fiscal year, and for destruction 10 years after cut-off; (5) Non-FHFA Offices' Correspondence (GRS 23, item 1), which permits destruction after 2 years; and (6) FHFA Offices' Correspondence (N1–485–94–1, Item 3.6), which provides for annual cut-off, and for destruction when no longer needed'' and replacing it with ''(1) FHFA's Comprehensive Records

Schedule Item 7.2(a) (N1–543–11–1, approved 01/11/2013), which provides the cut-off and disposition schedule for significant investigative case records; and (2) Item 7.2(b), which provides the cut-off and disposition schedule for all other investigative case records.''

7. The system manager(s) and address will be amended by removing ''1625 Eye Street NW., Washington, DC 20006'' and replacing it with ''400 7th Street SW., Washington, DC 20024.''

8. The ''exemptions claimed for the system'' section will be amended to reflect those records that FHFA specifically exempted when it implemented 5 U.S.C. 552a(j)(2) and (k)(2), *see* 77 FR 4645 (January 31, 2012), which is codified at 12 CFR 1204.7(c). Consequently, the following language: ''Some records contained within this system of records are exempt from 5 U.S.C. 552a(c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2) and (k)(2). FHFA is in the process of publishing an updated Privacy Act regulation at 12 CFR part 1204 that will implement (j)(2) and (k)(2) exemptions to cover FHFA–OIG records. Upon publication of this revised Privacy Act Regulation, these exemptions are hereby incorporated by reference and are an integral part of this SORN'' will be removed and be replaced with ''Some records contained within this system of records are exempt from 5 U.S.C. 552a(c)(3), (d)(1), (d)(2), (e)(1), (e)(2), (e)(3), of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2) and (k)(2), *see* 12 CFR 1204.7(c), implementing the exemptions in 5 U.S.C. 552a(j)(2) and (k)(2) for FHFA–OIG records. These exemptions are hereby incorporated by reference and are an integral part of this SORN.''

*FHFA–OIG–4*

The existing SOR entitled, FHFA–OIG Hotline Database, published at 76 FR 11465 (March 2, 2011), is being amended to update the system location, retention and disposal schedules, FHFA–OIG's address, and the exemptions claimed.

Thus, the following changes are being made:

1. The ''system location'' section is being amended by removing ''This system of records is located on a computer system owned and administered by FHFA. FHFA–OIG may transfer this system of records to a stand-alone, physically secure FHFA–OIG computer system'' and replacing it with ''This system of records is managed and administered by NASA–OIG.''

2. The ''retention and disposal'' section is being amended by removing ''(1) Chronological File (N1–485–08–2, Item 5), which provides for annual cut-off and for destruction 5 years after cut-off; (2) Inspector General Community Operational Guidance (N1–485–08–2, Item 16), which provides for annual cut-off and for destruction 3 years after cut-off; (3) Non-FHFA Offices' Correspondence (GRS 23, item 1), which permits destruction after 2 years; and (4) FHFA Offices' Correspondence (N1–485–94–1, Item 3.6), which provides for annual cut-off, and for destruction when no longer needed'' and replacing it with ''FHFA's Comprehensive Records Schedule Item 7.4 (N1–543–11–1, approved 01/11/2013), which provides the cut-off and disposition schedule for hotline records.''

3. The ''system manager(s) and address'' section will be amended by removing ''1625 Eye Street NW., Washington, DC 20006'' and replacing it with ''400 7th Street SW., Washington, DC 20024.''

4. The ''exemptions claimed for the system'' section will be amended to reflect those records that FHFA specifically exempted when it implemented 5 U.S.C. 552a(j)(2) and (k)(2), *see* 77 FR 4645 (January 31, 2012) which is codified at 12 CFR 1204.7(c). Consequently, the following language: ''Some records contained within this system of records are exempt from 5 U.S.C. 552a(c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2) and (k)(2). FHFA is in the process of publishing an updated Privacy Act regulation at 12 CFR part 1204 that will implement (j)(2) and (k)(2) exemptions to cover FHFA–OIG records. Upon publication of this revised Privacy Act Regulation, these exemptions are hereby incorporated by reference and are an integral part of this SORN'' will be removed and be replaced with ''Some records contained within this system of records are exempt from 5 U.S.C. 552a(c)(3), (d)(1), (d)(2), (e)(1), (e)(2), (e)(3), of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2) and (k)(2), *see* 12 CFR 1204.7(c), implementing the exemptions in 5 U.S.C. 552a(j)(2) and (k)(2) for FHFA–OIG records. These exemptions are hereby incorporated by reference and are an integral part of this SORN.''

*FHFA–OIG–5*

The existing SOR entitled FHFA–OIG Correspondence Database, published at 76 FR 11465 (March 2, 2011), is being amended to update the system location, retention and disposal schedules, FHFA–OIG's address, and the exemptions claimed.

Thus, the following changes are being made:

1. The ''system location'' section is being amended by removing ''This system of records is located on a computer system owned and administered by FHFA. FHFA–OIG may transfer this system of records to a stand-alone, physically secure FHFA–OIG computer system'' and replacing it with ''This system of records is located on a computer system that is managed and administered by Microsoft/Office 365.''

2. The ''retention and disposal'' section is being amended by removing ''(1) Chronological File (N1–485–08–2, Item 5), which provides for annual cut-off and for destruction 5 years after cut-off; (2) Non-FHFA Offices' Correspondence (GRS 23, item 1), which permits destruction after 2 years; (3) FHFA Offices' Correspondence (N1–485–94–1, Item 3.6), which provides for annual cut-off, and for destruction when no longer needed; and (4) Freedom of Information Act Request Files (GRS 14, Item 11a(1)): If access is granted to all requested records, destroy 2 years after reply; if access is denied for technical reasons (failure to pay fee, nonexistent records, etc.), destroy 2 years after reply; if access is denied on substantive grounds at least in part but no appeal, destroy 6 years after reply; if denial is appealed, destroy in accordance with GRS 14, Item 12 for FOIA Request Appeals'' and replacing it with ''FHFA's Comprehensive Records Schedule Items 1.1, which provides the retention and disposition schedule for records of the Director and other senior agency officials; Item 1.2, which provides the retention and disposition schedule for Congressional correspondence; Item 6.2, which provides the retention and disposition schedule for litigation and administrative hearing correspondence; Item 6.4, which provides the retention and disposition schedule for routine office administration correspondence; and Item 7 which provides the retention and disposition schedule for Inspector General records that may include correspondence (N1–543–11–1, approved 01/11/2013).''

3. The ''system manager(s) and address'' section will be amended by removing ''1625 Eye Street NW., Washington, DC 20006'' and replacing it with ''400 7th Street SW., Washington, DC 20024.''

4. The ''exemptions claimed for the system'' section will be amended to reflect those records that FHFA specifically exempted when it implemented 5 U.S.C. 552a(j)(2) and

(k)(2), *see* 77 FR 4645 (January 31, 2012) which is codified at 12 CFR 1204.7(c). Consequently, the following language: ''Some records contained within this system of records are exempt from 5 U.S.C. 552a(c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2) and (k)(2). FHFA is in the process of publishing an updated Privacy Act regulation at 12 CFR part 1204 that will implement (j)(2) and (k)(2) exemptions to cover FHFA–OIG records. Upon publication of this revised Privacy Act Regulation, these exemptions are hereby incorporated by reference and are an integral part of this SORN'' will be removed and be replaced with ''Some records contained within this system of records are exempt from 5 U.S.C. 552a(c)(3), (d)(1), (d)(2), (e)(1), (e)(2), (e)(3), of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2) and (k)(2), *see* 12 CFR 1204.7(c), implementing the exemptions in 5 U.S.C. 552a(j)(2) and (k)(2) for FHFA–OIG records. These exemptions are hereby incorporated by reference and are an integral part of this SORN.''

*FHFA–OIG–6*

A new SOR entitled, FHFA–OIG Evaluations Files Database is being created.

Thus, the following section is being added:

**FHFA–OIG–6**

**SYSTEM NAME:**

FHFA–OIG Evaluations Files Database.

**SECURITY CLASSIFICATION:**

Sensitive but unclassified.

**SYSTEM LOCATION:**

This system of records is located on a computer system that is managed and administered by NASA–OIG.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Evaluators, certain administrative support staff, contractors of FHFA–OIG, and certain subjects and/or witnesses referenced in FHFA–OIG's evaluations activities.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Evaluation reports, white papers, and other reports or studies; and (2) working papers, which may include copies of correspondence, evidence, subpoenas, responses to evidence requests, memoranda of interviews conducted, statistical tables, and/or other documents collected and/or generated by the Office of Evaluations or its contractors during the course of official duties.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

The system is established and maintained pursuant to 12 U.S.C. 4517(d), 5 U.S.C. App. 3, and 5 U.S.C. 301.

**PURPOSE(S):**

This system is maintained in order to act as a management information system for FHFA–OIG evaluations projects and personnel and to assist in the accurate and timely conduct of evaluations.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

These records may be used to:

(1) Disclose pertinent information to appropriate Federal, foreign, State, local, Tribal, or other public authorities or self-regulatory organizations responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation;

(2) Disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings;

(3) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(4) Disclose information to another Federal agency to (a) permit a decision as to access, amendment, or correction of records to be made in consultation with or by that agency, or (b) verify the identity of an individual or the accuracy of information submitted by an individual who has requested access to or amendment or correction of records;

(5) Disclose information to the Department of Justice when seeking legal advice, or when (a) the agency, or (b) any component thereof, or (c) any employee of the agency in his or her official capacity, or (d) any employee of the agency in his or her individual capacity where the Department of Justice has agreed to represent the employee, or (e) the United States, where the agency determines that litigation is likely to affect the agency or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice is deemed by the agency to be relevant and necessary to the litigation;

(6) Disclose information to the appropriate foreign, State, local, Tribal, or other public authority or self-regulatory organization for the purpose of (a) consulting as to the propriety of access to or amendment or correction of information obtained from that authority or organization, or (b) verifying the identity of an individual who has requested access to or amendment or correction of records;

(7) Disclose information to contractors and other agents who have been engaged by FHFA–OIG or one of its components to provide products or services associated with FHFA–OIG's or component's responsibility arising under the Freedom of Information Act/Privacy Act (FOIA/PA);

(8) Disclose information to the National Archives and Records Administration for use in records management inspections;

(9) Disclose information to appropriate agencies, entities, and persons when (1) FHFA–OIG suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) FHFA–OIG has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by FHFA–OIG or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with FHFA–OIG's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(10) Disclose information to any source, either private or governmental, to the extent necessary to elicit information relevant to an FHFA–OIG audit, evaluation, or investigation;

(11) Disclose information to the Equal Employment Opportunity Commission, Merit Systems Protection Board, arbitrators, and other parties responsible for processing personnel actions or conducting administrative hearings or appeals, or if needed in the performance of other authorized duties;

(12) In situations involving an imminent danger of death or physical injury, disclose relevant information to an individual or individuals who are in danger;

(13) Disclose information to persons engaged in conducting and reviewing

internal and external peer reviews of FHFA–OIG to ensure adequate internal safeguards and management procedures exist and are in compliance with applicable standards; and

(14) Disclose information that if withheld would tend to diminish or interfere with the comprehension of the significance of or nuances contained in the findings in any and all reports issued in compliance with requirements of the Inspector General Act of 1978 (5 U.S.C. App. 3), as amended.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICE FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper records and electronic media.

**RETRIEVABILITY:**

By name of the evaluator, support staff, contractors, or subject of or witnesses to the evaluation.

**SAFEGUARDS:**

The records are accessible to FHFA–OIG personnel, all of whom have been the subject of background investigations, on a need-to-know basis. Disclosure of information through remote terminals is restricted through the use of passwords and sign-on protocols, which are periodically changed; these terminals are accessible only to authorized persons. Paper records are maintained in locked facilities and/or cabinets with restricted access.

**RETENTION AND DISPOSAL:**

Records in this system will be retained in accordance with approved retention schedules, including FHFA's Comprehensive Records Schedule Item 7.2(a) (N1–543–11–1, approved 01/11/2013), which provides the cut-off and disposition schedule for significant evaluative case records; and (2) Item 7.2(b), which provides the cut-off and disposition schedule for all other evaluative case records. Additional approved schedules may apply. Destruction of records shall occur in the manner(s) appropriate to the type of record, such as shredding of paper records and/or deletion of computer records.

**SYSTEM MANAGER(S) AND ADDRESS:**

Chief Counsel, Office of Inspector General, Federal Housing Finance Agency, 400 7th Street SW., Washington, DC 20024.

**NOTIFICATION PROCEDURES:**

Individuals seeking notification and access to any record contained in this system of records, or seeking to contest its content, may inquire in writing in accordance with instructions appearing at 12 CFR 1202.5. This system of records may contain records that are exempt from the notification, access, and contesting records requirements pursuant to the provisions of 5 U.S.C. 552a(j)(2) and (k)(2).

**RECORD ACCESS PROCEDURES:**

See ''Notification Procedures'' above.

**CONTESTING RECORD PROCEDURES:**

See ''Notification Procedures'' above.

**RECORD SOURCE CATEGORIES:**

Some records contained within this system of records are exempt from the requirement that the record source categories be disclosed pursuant to the provisions of 5 U.S.C. 552a(j)(2) and (k)(2).

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

Some records contained within this system of records are exempt from 5 U.S.C. 552a(c)(3), (d)(1), (d)(2), (e)(1), (e)(2), (e)(3), of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2) and (k)(2), *see* 12 CFR 1204.7(c) implementing the exemptions in 5 U.S.C. 552a(j)(2) and (k)(2) for FHFA–OIG records. These exemptions are hereby incorporated by reference and are an integral part of this SORN.

Dated: October 24, 2013.

**Michael P. Stephens,**

*Inspector General (Acting).*

[FR Doc. 2013–26010 Filed 10–31–13; 8:45 am]

**BILLING CODE 6725–08–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 November 29, 2013.

A. Federal Reserve Bank of Richmond (Adam M. Drimer, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. *Cardinal Financial Corporation,* McLean, Virginia; to acquire 100 percent of the voting shares of United Financial Banking Companies, Inc., and thereby indirectly acquire voting shares of The Business Bank, both in Vienna Virginia.

Board of Governors of the Federal Reserve System, October 29, 2013.

**Margaret McCloskey Shanks,**

*Deputy Secretary of the Board.*

[FR Doc. 2013–26075 Filed 10–31–13; 8:45 am]

**BILLING CODE 6210–01–P**

## FEDERAL TRADE COMMISSION

**[Project No. P962501]**

### Ganley Ford West, Inc.; Timonium Chrysler, Inc.; TRENDnet, Inc.; Pinnacle Entertainment, Inc.; Honeywell International, Inc.; Nielsen Holdings, Inc., et al.; Polypore International, Inc.; Mylan, Inc., et al.; Actavis, Inc., et al.; Agency Information Collection Activities (Consumer Product Warranty Rule, Regulation O, Affiliate Marketing Rule)

**AGENCY:** Federal Trade Commission (FTC or Commission).

**ACTION:** Notice of extension of public comment deadlines in Commission proceedings.

**SUMMARY:** The FTC is extending the deadlines by which public comments must be filed in a number of Commission proceedings.

**DATES:** Written comments in particular proceedings must be received by the dates specified in the **SUPPLEMENTARY INFORMATION** section below.

**ADDRESSES:** Interested parties may file comments online by following the instructions detailed in the news releases and accompanying **Federal Register** Notices describing each of the proceedings involved, which are listed in and electronically accessible through the **SUPPLEMENTARY INFORMATION** section below. Interested parties who prefer to file their comments in any of the listed proceedings on paper may do so by mailing or delivering their comments to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex E), 600 Pennsylvania Avenue NW., Washington, DC 20580.

**FOR FURTHER INFORMATION CONTACT:** Donald S. Clark, Secretary, Office of the Secretary, (202) 326–2514, Federal Trade Commission, Washington, DC 20580.

**SUPPLEMENTARY INFORMATION:**

## A. Introduction

The federal government shutdown began on October 1, 2013, and ended on October 16, 2013. The public comment periods for a number of Commission proceedings were open for part or all of the shutdown period; however, during the shutdown period it was not possible for interested parties to file comments in these proceedings. In order to ensure that interested parties have a full opportunity to file comments in these proceedings, the Commission has determined to extend the public comment period for the following proceedings. In particular, for each proceeding arising from Commission acceptance for public comment of an Administrative Consent Agreement—or from an application for Commission approval of a divestiture pursuant to a Commission Decision and Order—the Commission has determined to extend the public comment period until November 12, 2013. The ten proceedings covered by this determination—and the news release in which each such proceeding is described—include the following:

1. *In the Matter of Ganley Ford West, Inc., File No. 122 3269* (Consent Agreement): *http://www.ftc.gov/opa/2013/09/autoads.shtm.*

2. *In the Matter of Timonium Chrysler, Inc., File No. 132 3014* (Consent Agreement): *http://www.ftc.gov/opa/2013/09/autoads.shtm.*

3. *In the Matter of TRENDnet, Inc., File No. 122 3090* (Consent Agreement): *http://www.ftc.gov/opa/2013/09/trendnet.shtm.*

4. *In the Matter of Pinnacle Entertainment, Inc., et al., Docket No. 9355* (Application to Divest Ameristar Casinos Assets in Lake Charles, Louisiana): http://www.ftc.gov/*opa/2013/09/pinnacle.shtm.*

5. *In the Matter of Honeywell International, Inc., File No. 131 0070* (Consent Agreement): *http://www.ftc.gov/opa/2013/09/honeywell.shtm.*

6. *In the Matter of Pinnacle Entertainment, Inc., et al., Docket No. 9355* (Application to Divest Pinnacle Assets in St. Louis, Missouri): *http://www.ftc.gov/opa/2013/09/pinnacleapp.shtm.*

7. *In the Matter of Nielsen Holdings, Inc., et al., File No. 131 0058* (Consent Agreement): *http://www.ftc.gov/opa/2013/09/nielsen.shtm.*

8. *In the Matter of Polypore International, Inc., Docket No. 9327* (Application To Divest Stock and Assets Related to Microporous): *http://www.ftc.gov/opa/2013/09/polypore.shtm.*

9. *In the Matter of Mylan, Inc., et al., File No. 131 0112* (Consent Agreement): *http://www.ftc.gov/opa/2013/09/mylan.shtm.*

10. *In the Matter of Actavis, Inc., et al., File No. 131 0152* (Consent Agreement): *http://www.ftc.gov/opa/2013/09/actavis.shtm.*

The Commission has also determined to extend the public comment period for three proceedings in which it has proposed to collect information in a manner subject to the requirements of the Paperwork Reduction Act. The proceedings covered by this determination, the **Federal Register** Notice in which each proceeding is described, and the new deadline by which public comments must be received are as follows:

11. *Agency Information Collection Activities; Proposed Collection; Comment Request; Consumer Product Warranty Rule: FTC File No. P044403;* 78 FR 47317 (August 5, 2013): *http://www.ftc.gov/os/fedreg/2013/08/130805warrantyrules.pdf* (comment period extended until November 8, 2013);

12. *Agency Information Collection Activities; Proposed Collection; Comment Request; Regulation O PRA Comment, FTC File No. P134812;* 78 FR 52915 (August 27, 2013): *http://www.ftc.gov/os/fedreg/2013/08/130827cfpb-rego.pdf* (comment period extended until November 13, 2013);

13. *Agency Information Collection Activities; Proposed Collection; Comment Request; Affiliate Marketing Rule PRA: FTC File No. P134812;* 78 FR 52918 (August 27, 2013): *http://www.ftc.gov/os/fedreg/2013/08/130827affiliatemarktrule.pdf* (comment period extended until November 13, 2013).

## B. Invitation To Comment

You can file a comment online or on paper. For the Commission to consider your comment in Proceedings Nos. 1–10, we must receive it on or before November 12, 2013. For the Commission to consider your comment in Proceedings Nos. 11–13, we must receive it on or before the dates indicated immediately above for those respective proceedings. Please write the name and matter number of the proceeding on your comment, and please note that your comment—including your name and your state—will be placed on the public record of that proceeding, including, to the extent practicable, on the public Commission Web site, at *http://www.ftc.gov/os/publiccomments.shtm.* As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, such as Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, including medical records or other individually identifiable health information. In addition, do not include any ''[t]rade secret or any commercial or financial information . . . which is privileged or confidential,'' as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).[1] Your comment will be kept confidential only if the FTC General Counsel grants your

[1] In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comment online, by following the instructions in the news release describing the proceeding in which you wish to file a comment. If the Notice describing that proceeding appears at *http://www.regulations.gov/#!home,* you also may file a comment through that Web site.

If you file your comment on paper, write the name and matter number of the proceeding on your comment and on the envelope, and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex E), 600 Pennsylvania Avenue NW., Washington, DC 20580. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm.*

By direction of the Commission.[2]

**Donald S. Clark,**

*Secretary.*

[FR Doc. 2013–26011 Filed 10–31–13; 8:45 am]

**BILLING CODE 6750–01–P**

[2] Commissioner Ohlhausen did not participate in the decision with respect to *In the Matter of Nielsen Holdings N.V. and Arbitron Inc., File No. 131 0058,* from which she is recused.

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the Secretary

**[Document Identifier HHS–OS–20358–30D]**

### Agency Information Collection Activities; Submission to OMB for Review and Approval; Public Comment Request

**AGENCY:** Office of the Secretary, HHS.

**ACTION:** Notice.

**SUMMARY:** In compliance with section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, has submitted an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB) for review and approval. The ICR is for renewal of the approved information collection assigned OMB control number 0990–0317, scheduled to expire on October 31, 2013. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public on this ICR during the review and approval period.

**DATES:** Comments on the ICR must be received on or before December 2, 2013.

**ADDRESSES:** Submit your comments to *OIRA_submission@omb.eop.gov* or via facsimile to (202) 395–5806.

**FOR FURTHER INFORMATION CONTACT:** Information Collection Clearance staff, *Information.CollectionClearance@hhs.gov* or (202) 690–6162.

**SUPPLEMENTARY INFORMATION:** When submitting comments or requesting information, please include the OMB control number 0990–0317 and document identifier HHS–OS–20358–30D for reference.

*Information Collection Request Title:* HHS Supplemental Form to the SF–424 (HHS 5161–1).

*OMB No.:* 0990–0317.

*Abstract:* HHS is requesting clearance for use of the Checklist and Program Narrative, with non-substantial changes, & the Public Health System Impact Statement (PHSIS), used by the Substance Abuse and Mental Health Services Administration (SAMHSA) and several former PHS agencies within HHS; CDC 0.1113 supplemental forms used exclusively by CDC; a supplement form used exclusively by SAMHSA, and the Single Source Agency (SSA) notification form, as well as continued use of the project abstract form. In addition, SAMHSA will continue to include the HHS grant application checklist form.

*Need and Proposed Use of the Information:* Each agency's financial assistance program evaluates the information provided by the applicants to select the ones most likely to meet program objectives and to determine that satisfactory progress is being made on funded projects.

*Likely Respondents:* CDC, SAMHSA, IHS, OS, FDA, and HRSA.

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.

| Forms | Number of respondents | Response per respondent | Average burden per response (in hours) | Total burden (in hours) |
|---|---|---|---|---|
| Program Narrative, Checklist, & Project Abstract | 7,338 | 1 | 4 | 29,373 |
| Program Narrative, Checklist & Project Narrative (CDC) | 59 | 6 | 24 | 8,496 |
| Program Narrative, Checklist, & Project Narrative (HRSA) | 59 | 1 | 50 | 2,950 |
| CDC Form 0.1113 | 1,000 | 1 | 30/60 | 500 |
| Public Health Impact Statement (PHSIS) | 2,845 | 2.5 | 10/60 | 1,185 |
| Total | | | | 42,691 |

**Darius Taylor,**

*Deputy, Information Collection Clearance Officer.*

[FR Doc. 2013–26001 Filed 10–31–13; 8:45 am]

**BILLING CODE 4151–17–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[30Day–14–0950]**

### Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–5960 or send an email to *omb@cdc.gov.* Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

**Proposed Project**

The National Health and Nutrition Examination Survey (NHANES) OMB No. 0920–0950, expires 11/30/2015)—Revision—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC).

*Background and Brief Description*

Section 306 of the Public Health Service (PHS) Act (42 U.S.C. 242k), as amended, authorizes that the Secretary of Health and Human Services (DHHS), acting through NCHS, shall collect statistics on the extent and nature of illness and disability; environmental, social and other health hazards; and determinants of health of the population of the United States.

The National Health and Nutrition Examination Surveys (NHANES) have been conducted periodically between 1970 and 1994, and continuously since 1999 by the National Center for Health Statistics, CDC. Annually, approximately 15,411 respondents participate in some aspect of the full survey. About 10,000 complete the screener for the survey. About 142 complete the household interview only. About 5,269 complete both the household interview and the Mobile Examination Center (MEC) examination. Up to 4,000 additional persons might participate in tests of procedures, special studies, or methodological studies (see line 2 of Burden Table). Participation in NHANES is completely voluntary and confidential. A two-year approval is requested.

NHANES programs produce descriptive statistics which measure the health and nutrition status of the general population. Through the use of physical examinations, laboratory tests, and interviews NHANES studies the relationship between diet, nutrition and health in a representative sample of the United States. NHANES monitors the prevalence of chronic conditions, risk factors, and environmental exposures. NHANES data are used to produce national reference data on height, weight, and nutrient levels in the blood. Results from more recent NHANES can be compared to findings reported from previous surveys to monitor changes in the health of the U.S. population over time. NCHS collects personal identification information. Participant level data items will include basic demographic information, name, address, social security number, Medicare number and participant health information to allow for linkages to other data sources such as the National Death Index and data from the Centers for Medicare and Medicaid Services (CMS).

A variety of agencies sponsor data-collection components on NHANES. To keep burden down, NCHS cycles in and out various components. The 2013–2014 NHANES physical examination includes the following components: Oral glucose tolerance test (ages 12 and older), grip strength (ages 6 and older), anthropometry (all ages), 24-hour dietary recall (all ages), physician's examination (all ages, blood pressure is collected here), taste and smell (60 and older), oral health examination (ages 1 and older, fluorosis photos ages 6–19), dual X-ray absorptiometry (total body composition ages 6–59 and osteoporosis, vertebral fractures and aortic calcification ages 40 and older). While at the examination center additional interview questions are asked (6 and older); a physical activity monitor is placed for 7 days of wear (ages 3 and older) and instructions are provided for mailing it back; a second 24-hour dietary recall (all ages) is scheduled to be conducted by phone 3–10 days later; and supplies and directions for a home urine collection (ages 20–69) is explained (this urine is mailed back).

The bio-specimens collected for laboratory tests include urine, blood, vaginal and penile swabs, oral rinses and household water collection. Serum, plasma and urine specimens are stored for future testing if the participant consents.

For the 2013–14 NHANES some major additions to the laboratory component include the following: Additional laboratory tests related to tobacco exposure, laboratory content related to fluoride exposure, and collection of HPV swabs for males.

The following major examination or laboratory items, that had been included in the 2011–2012 NHANES, were cycled out for NHANES 2013–2014: Tuberculin skin testing, the respiratory health, and hearing examination components, and collection of a genetic specimen for future testing.

Most sections of the NHANES interviews provide self-reported information to be used either in concert with specific examination or laboratory content, as independent prevalence estimates, or as covariates in statistical analysis (e.g., socio-demographic characteristics). Some examples include alcohol, drug, and tobacco use, sexual behavior, prescription and aspirin use, and indicators of oral, bone, reproductive, and mental health. Several interview components support the nutrition monitoring objective of NHANES, including questions about food security and nutrition program participation, dietary supplement use, and weight history/self-image/related behavior.

In 2014, 24-hour urine will be collected from interested NHANES participants who have completed the NHANES examination. This information is designed to better understand sodium intake and provide a population baseline for use in monitoring trends in sodium intake in the future. This special study will be limited to a one-half sample of participants ages 20–69. One half of those successfully completing this initial collection will be asked to complete second 24-hour urine. In addition to sodium levels, potassium, chloride and creatinine levels will be measured. Other analyses of the urine are being considered: Fluoride, micro-albumin, phosphorus and iodine.

NHANES data users include the U.S. Congress; numerous Federal agencies such as other branches of the Centers for Disease Control and Prevention, the National Institutes of Health, and the United States Department of Agriculture; private groups such as the American Heart Association; schools of public health; and private businesses. There is no cost to respondents other than their time to participate. The total estimate of annualized burden is 48,986 hours.

ANNUALIZED BURDEN HOURS AND COSTS

| Type of respondent | Form | Number of respondents | Number of responses per respondent | Average burden per response (in hours) |
|---|---|---|---|---|
| Individuals in households | NHANES Questionnaire | 15,411 | 1 | 2.4 |
| Individuals in households | Special Studies | 4,000 | 1 | 3 |

**LeRoy A. Richardson,**

*Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Center for Disease Control and Prevention.*

[FR Doc. 2013–26115 Filed 10–31–13; 8:45 am]

BILLING CODE 4163–18–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[60Day–14–0955]**

### Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–7570 or send comments to LeRoy Richardson, at 1600 Clifton Road, MS D74, Atlanta, GA 30333 or send an email to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; 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. Written comments should be received within 60 days of this notice.

**Proposed Project**

Early Hearing Detection and Intervention—Pediatric Audiology Links to Service (EHDI–PALS) Survey (OMB No. 0920–0955, Expiration 02/28/2014)—Revision—National Center on Birth Defects and Developmental Disabilities (NCBDDD), Centers for Disease Control and Prevention (CDC).

**Background and Brief Description**

The Division of Human Development and Disability, located within NCBDDD, promotes the health of babies, children, and adults, with a focus on preventing birth defects and developmental disabilities and optimizing the health outcomes of those with disabilities. Since the passage of the Early Hearing Detection and Intervention (EHDI) Act, 97% of newborn infants are now screened for hearing loss prior to hospital discharge. However, many of these infants have not received needed hearing tests and follow up services after their hospital discharges. The 2011 national average loss to follow-up/loss to documentation rate is at 35%. This rate remains an area of critical concern for state EHDI programs and CDC–EHDI team's goal of timely diagnosis by 3 months of age and intervention by 6 months of age. Many states cite the lack of audiology resources as the main factor behind the high loss to follow up. To compound the problem, many pediatric audiologists may be proficient evaluating children age five and older but are not proficient with diagnosing infants or younger children because children age five and younger require a different skill set. No existing literature or database was available to help states verify and quantify their states' true follow up capacity until this project went live in 2013.

Meeting since April 2010, the EHDI–PALS workgroup has sought consensus on the loss to follow up/loss to documentation issue facing the EHDI programs. A survey based on standard of care practice was developed for state EHDI programs to quantify the pediatric audiology resource distribution within their state, particularly audiology facilities that are equipped to provide follow up services for children age five and younger. After nine months of data collection, preliminary data suggested that children residing in certain regions of the United States who were loss to follow up were due to the distance parents had to travel to reach a pediatric audiology facility. For example, parents who reside in western region of Nebraska and Iowa on average have to drive over 100 miles to reach a pediatric audiology facility.

CDC is requesting an Office of Management and Budget (OMB) approval to continue collecting audiology facility information from audiologists or facility managers so both parents, physicians and state EHDI programs will have a tool to find where the pediatric audiology facilities are located. This survey will continue to allow CDC–EHDI team and state EHDI programs to compile a systematic, quantifiable distribution of audiology facilities and the capacity of each facility to provide services for children age five and younger. The data collected will also allow the CDC–EHDI team to analyze facility distribution data to improve technical assistance to State EHDI programs.

Two additional questions will be added to the existing survey. The two questions will ask for more information from audiology facilities that provide services by remote telepractice technology. This information will be of vital interest and benefit for both parents who live in remote regions of the US and state EHDI programs to maximize resource coverage. Respondents will all be audiologists who manage a facility or provide audiologic care for children age five and younger. To minimize burden and improve convenience, the survey will continue to be available via a secure password protected Web site. Placing the survey on the internet ensures convenient, on-demand access by the audiologists. Financial cost is minimized because no mailing fee will be associated with sending or responding to this survey.

EHDI–PALS currently has 882 facilities in the database since the beginning of the data collection. All 882 facilities' contacts will receive a brief email from University of Maine to remind them to review their survey answers. It is estimated that approximately 800 audiologists will do so. It takes approximately two minutes per person to review the survey

answers. Both ASHA and AAA are members of the EHDI–PALS workgroup and will continue to disseminate a request through association e-newsletters and e-announcements to all audiologists who provide services to children younger than five years of age to complete the EHDI–PALS survey. It is estimated that potentially an additional 400 new audiologists will read through the purpose statement located on page one of the survey to decide whether or not to complete the survey. This will take one minute per person. It is estimated that 200 audiologists will complete the survey which will average nine minutes per respondent. The nine minutes calculation is based on a previous timed pre-test with six volunteer audiologists. There are no costs to respondents other than their time.

ESTIMATES OF ANNUALIZED BURDEN HOURS

| Respondents | Form name | Number of respondents | Number of responses per respondent | Average burden per response (in minutes) | Total burden hours |
|---|---|---|---|---|---|
| Audiologists who have completed survey | Survey | 800 | 1 | 2/60 | 27 |
| New Audiologists | Survey Introduction | 400 | 1 | 1/60 | 7 |
| New Audiologists | Survey | 200 | 1 | 9/60 | 30 |
| Total | | | | | 64 |

**Leroy Richardson,**

*Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.*

[FR Doc. 2013–26116 Filed 10–31–13; 8:45 am]

BILLING CODE 4163–18–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[30Day-14–0406]**

### Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–5960 or send an email to *omb@cdc.gov.* Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

**Proposed Project**

State and Local Area Integrated Telephone Survey (SLAITS) (The National Survey of the Diagnosis and Treatment of Attention Deficit/Hyperactivity Disorder and Tourette Syndrome) (NS–DATA), (OMB No. 0920–0406, Expiration 04/30/2014)—Discretionary—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC).

**Background and Brief Description**

Section 306 of the Public Health Service (PHS) Act (42 U.S.C. 242k), as amended, authorizes that the Secretary of Health and Human Services (DHHS), acting through NCHS, shall collect statistics on the extent and nature of illness and disability of the population of the United States. This discretionary submission is to notify the public of a request to initiate another project within the SLAITS mechanism.

SLAITS is an integrated and coordinated survey system that has been conducted since 1997, in accordance with the 1995 initiative to increase the integration of surveys within DHHS. It is designed to collect needed health and well-being data at the national, state, and local levels. Using the large sampling frame of the ongoing National Immunization Survey (NIS) and Computer Assisted Telephone Interviewing (CATI), and when necessary independent samples, mail, and Internet modes to support data collection activities, SLAITS has quickly collected and produced household and person-level data to monitor health-related areas. Questionnaire content is drawn from existing surveys within DHHS and other Federal agencies, or developed specifically to meet project sponsor needs.

This project consists of a national survey designed to collect information about families with children who have previously been diagnosed with either Attention Deficit/Hyperactivity Disorder (ADHD) and/or Tourette Syndrome (TS). The primary goal of the study is to describe the various pathways to diagnosis and treatments for children diagnosed with either condition. The survey contains questions on diagnosis history, the presence of co-occurring disorders, medication and treatment usage, as well as academic performance and symptom measures.

Approximately 3,700 parents or guardians of children previously diagnosed with ADHD and/or TS located throughout the United States will be interviewed. The annual burden hours requested is 1,850 hours or 0.5 hours per respondent. The annualized cost to respondents is estimated at $38,850 or $10.50 per respondent.

ESTIMATED ANNUALIZED BURDEN HOURS

| Type of respondent | Form name | Number of respondents | Responses per respondent | Average burden per response (in hours) |
|---|---|---|---|---|
| Parent or Guardian | The National Survey of the Diagnosis and Treatment of Attention Deficit/Hyperactivity Disorder and Tourette Syndrome. | 3,700 | 1 | 30/60 |

**LeRoy A. Richardson,**

*Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Center for Disease Control and Prevention.*

[FR Doc. 2013–26089 Filed 10–31–13; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[30Day–14–13UW]**

### Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call (404) 639–7570 or send an email to *omb@cdc.gov.* Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

**Proposed Project**

Enhanced Utilization of Personal Dust Monitor Feedback—New—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

*Background and Brief Description*

NIOSH, under Public Law 91–596, Sections 20 and 22 (Section 20–22, Occupational Safety and Health Act of 1970) has the responsibility to conduct research relating to innovative methods, techniques, and approaches dealing with occupational safety and health problems.

This research relates to occupational safety and health problems in the coal mining industry. Coal Workers' Pneumoconiosis (CWP) or ''Black Lung Disease,'' caused by miners' exposure to respirable coal mine dust, is the leading cause of death due to occupational illness among U.S. coal miners. Although the prevalence of CWP was steadily decreasing, more recent data from NIOSH's chest x-ray surveillance data suggests that the prevalence of this disease is on the rise once again.

A Personal Dust Monitor (PDM) has become commercially available that provides miners with near real-time feedback on their exposure to respirable dust. If miners and mine managers know how to properly use the information provided by PDMs, they may be able to make adjustments to the work place and work procedures to try to reduce exposure to respirable dust. It is, therefore, important to study how, and under what circumstances, feedback from PDMs can be used to reduce respirable dust exposure and ultimately the incidence of Black Lung disease.

The objectives of the project are (1) to test an intervention designed to help miners use PDM feedback more effectively to reduce their exposure to respirable dust and (2) to document specific examples of ways that miners can use PDM feedback to alter their behaviors to decrease their exposure to respirable dust while working underground.

NIOSH proposes an intervention to lower miners' respirable dust exposure levels by involving them in the interpretation of PDM feedback and the discussion of ways to change their behaviors to decrease exposure to respirable dust. Upon completion of a pilot test, four underground coal mines will be involved in this research study. Miners who wear PDMs will be assigned to two groups, an experimental group and a control group. An effort will be made to recruit two mines that are currently using PDMs and two mines that have not used PDMs in the past. Large mines will be contacted for participation to make sure that there will be enough individuals wearing PDMs to create both an experimental group and a control group and to allow participants in the experimental group to form sub-groups during the weekly meetings based on their job classification. The PDM feedback discussions will be held weekly during the course of the six-week intervention period. Each session is expected to last for 45 minutes (15 minutes to fill out the worksheet and 30 minutes for the discussion). To control for unintended ''discussion'' between the control and experimental groups, selection of mine sites will favor mines where separate portals are used or where sister mines within the same company are located near one another.

For miners in the experimental group, data will be collected multiple times during the six-week intervention period. For miners in the control group, data will only be collected at the beginning and end of the intervention period. The assessment tools include: Surveys, worksheets, and structured interviews.

The experimental groups will receive the intervention which will include (1) an introduction to the project, (2) a pre-test concerning miners' attitude, knowledge, and behaviors toward PDM use, (3) a six-week intervention where PDM feedback is discussed in weekly meetings and worksheets are collected from mine personnel about their behaviors the previous week, and (4) a post-test concerning miners' attitude, knowledge, and behaviors toward PDM use and interviews of participants to identify changes in behaviors that were implemented to reduce respirable dust exposure. The control group will wear their PDM units when they are working underground but will not participate in weekly meetings. They will only complete the pre- and post-test and be interviewed upon completion of the intervention period.

The operators at each mine will provide daily respirable coal mine dust exposures levels (as measured by their PDMs) for all of the participating miners. They will provide their PDM output at the end of each participating miners' shift each day during the intervention for a total of 42 days. In addition, they will provide output for each participant for the three days prior to the intervention to establish a baseline measure. Therefore, NIOSH researchers will receive a total of 45 dust output readings for each participant. There is already a software program in place that electronically records these exposure levels and exports them to a spreadsheet that each mine site can open on a computer that has the appropriate software. It is estimated it will take no more than 5 minutes for the mine operator to remove any identifying information from the excel file and just send NIOSH the PDM number and dust output associated with that PDM in a new excel file.

It is estimated that across the 1 pilot mine and 4 intervention mines, up to 209 respondents will be surveyed; up to 109 will complete weekly worksheets; up to 49 respondents will be interviewed; and we will receive PDM output from up to 209 respondents. An exact number of respondents are unavailable at this time because the mine sites have not been selected.

After all of the information has been gathered, a variety of statistical and qualitative analyses will be conducted on the data to obtain conclusions with respect to miners' utilization of PDM feedback. The results from these analyses will be presented in a report describing what methods encourage miners to make behavior changes in response to their PDM output and what behavior changes work best at reducing miners' exposure to respirable dust. If the intervention is successful in reducing respirable coal mine dust exposure, details of the intervention

will be more widely disseminated to coal mine operators so they can implement similar discussion groups at their mines.

There is no cost to respondents other than their time. The total estimated annualized burden hours are 798.

ESTIMATED ANNUALIZED BURDEN HOURS

| Type of respondents | Form name | Number of respondents | Number of responses per respondent | Average burden per response (in hours) |
|---|---|---|---|---|
| Mine Safety Operators | Script for Phone and/or Email Mine Recruitment Script. | 5 | 1 | 5/60 |
| Individual Miners from Experimental and Control Groups. | Recruitment Script for Individual Miners | 209 | 1 | 3/60 |
| Experimental Groups (from five different mines). | Week 1 PDM Pre-Survey | 109 | 1 | 15/60 |
| | Week 2 Participant Worksheet | 109 | 1 | 15/60 |
| | Week 3–5 Participant Worksheets | 327 | 3 | 15/60 |
| | Week 6 PDM Post-Survey | 109 | 1 | 15/60 |
| | Facilitator Weekly Meeting Manual | 109 | 6 | 30/60 |
| | Interview Guide for Miners' Utilization of PDM Feedback. | 29 | 1 | 1 |
| Mine Safety Operators for Experimental Groups (from five different mines). | Daily respirable coal mine dust exposure data. | 5 | 45 | 5/60 |
| Mine Safety Operators for Control Groups (from four different mines). | | 4 | 45 | 5/60 |
| Control Groups (from four different mines) | Week 1 PDM Pre-Survey | 100 | 1 | 15/60 |
| | Week 6 PDM Post-Survey | 100 | 1 | 15/60 |
| | Interview Guide for Miners' Utilization of PDM Feedback. | 20 | 1 | 1 |

**LeRoy Richardson,**

*Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.*

[FR Doc. 2013–26114 Filed 10–31–13; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

**[Document Identifiers: CMS–1561, CMS–417, CMS–10433, and CMS–R–262]**

### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** Centers for Medicare & Medicaid Services, HHS.

**ACTION:** Notice.

**SUMMARY:** The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

**DATES:** Comments must be received by December 31, 2013.

**ADDRESSES:** When commenting, please reference the document identifier or OMB control number (OCN). To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs; Division of Regulations Development; Attention: Document Identifier/OMB Control Number __; Room C4–26–05 7500 Security Boulevard; Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

**FOR FURTHER INFORMATION CONTACT:** Reports Clearance Office at (410) 786–1326

**SUPPLEMENTARY INFORMATION:**

**Contents**

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–1561 Provider Agreement—CMS Form 1561 and 1561A and Supporting Regulations

CMS–417 Hospice Request for Certification and Supporting Regulations

CMS–10433 Initial Plan Data Collection to Support Qualified

Health Plan (QHP) Certification and Other Financial Management and Exchange Operations

CMS–R–262 CY 2015 Plan Benefit Package (PBP), Formulary, and Supporting Regulations

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

**Information Collections**

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Health Insurance Benefit Agreement; *Use:* Applicants to the Medicare program are required to agree to provide services in accordance with Federal requirements. The CMS–1561 is essential in that is allows us to ensure that applicants are in compliance with the requirements. Applicants will be required to sign the completed form and provide operational information to us to assure that they continue to meet the requirements after approval. *Form Number:* CMS–1561 (OCN: 0938–0832); *Frequency:* Yearly; *Affected Public:* Private Sector—Business or other for-profits and Not-for-profit institutions; *Number of Respondents:* 3,000; Total *Annual Responses:* 3,000; *Total Annual Hours:* 500. (For policy questions regarding this collection contact Shonte Carter at 410–786–3532).

2. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Hospice Request for Certification and Supporting Regulations; *Use:* The Hospice Request for Certification Form is the identification and screening form used to initiate the certification process and to determine if the provider has sufficient personnel to participate in the Medicare program. *Form Number:* CMS–417 (OCN: 0938–0313); *Frequency:* Annually; *Affected Public:* Private Sector—Business or other for-profits; *Number of Respondents:* 3,807; Total *Annual Responses:* 3,807; *Total Annual Hours:* 952. (For policy questions regarding this collection contact Patricia Sevast at 410–786–8135).

3. *Title of Information Collection:* Initial Plan Data Collection to Support Qualified Health Plan (QHP) Certification and Other Financial Management and Exchange Operations; *Type of Information Collection Request:* Revision of a currently approved collection; *Use:* As required by the CMS–9989–F, Patient Protection and Affordable Care Act; Establishment of Exchanges and Qualified Health Plans; Exchange Standards for Employers (77 FR 18310) (Exchange Establishment Rule), published on March 27, 2012, each Exchange must assume responsibilities related to the certification and offering of Qualified Health Plans (QHPs). To offer insurance through an Exchange, a health insurance issuer must have its health plans certified as QHPs by the Exchange. A QHP must meet certain minimum certification standards, such as those pertaining to essential community providers, essential health benefits, and actuarial value. In order to meet those standards, the Exchange is responsible for collecting data and validating that QHPs meet these minimum requirements as described in the Exchange rule under 45 CFR parts 155 and 156, based on the Affordable Care Act, as well as other requirements determined by the Exchange. In addition to data collection for the certification of QHPs, the reinsurance and risk adjustment programs outlined by the Affordable Care Act, detailed in 45 CFR part 153, as established by CMS–9975–F, Patient Protection and Affordable Care Act; Standards for Reinsurance, Risk Corridors, and Risk Adjustment (77 FR 17220), published in March 23, 2012, have general information reporting requirements that apply to issuers, group health plans, third party administrators, and plan offerings outside of the Exchanges. Subsequent regulations for these programs including the final HHS Notice of Benefit and Payment Parameters for 2014 and the Program Integrity: Exchange, Premium Stabilization Programs, and Market Standards; Amendments to the HHS Notice of Benefit and Payment Parameters for 2014 provide further reporting requirements. The Office of Management and Budget (OMB) issued OMB Control Number 0938–1187 for this Paperwork Reduction Act (PRA) package on March 13, 2013. Based on experience with the first year of data collection, we propose revisions to data elements being collected and the burden estimates for years two and three. *Form Number:* CMS–10433 (OCN: 0938–1187); *Frequency:* Annually; *Affected Public:* States and Private Sector—Business or other for-profits and Not-for-profit institutions; *Number of Respondents:* 27,225; *Number of Responses:* 27,225; *Total Annual Hours:* 216,028. (For questions regarding the collection contact Danielle Chestang at (410) 786–7815.)

4. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* CY 2015 Plan Benefit Package (PBP), Formulary, and Supporting Regulations; *Use:* We require Medicare Advantage and Prescription Drug Plan organizations submit a completed plan benefit package (PBP) and formulary as part of the annual bidding process. During this process, organizations prepare their proposed plan benefit packages for the upcoming contract year and submit them to us for review and approval. We publish beneficiary education information using a variety of formats. Specific education initiatives that utilize PBP and formulary data include web application tools on medicare.gov and the plan benefit insert in the Medicare & You handbook. In addition, organizations utilize the PBP data to generate their Summary of Benefits marketing information. *Form Number:* CMS–R–262 (OCN: 0938–0763); *Frequency:* Yearly; *Affected Public:* Private sector—Business or other for-profits and Not-for-profit institutions; *Number of Respondents:* 652; *Total Annual Responses:* 6,265; *Total Annual Hours:* 57,477. (For policy questions regarding this collection contact Kristy Holtje at 410–786–2209).

Dated: October 29, 2013.

**Martique Jones,**

*Deputy Director, Regulations Development Group Office of Strategic Operations and Regulatory Affairs.*

[FR Doc. 2013–26083 Filed 10–31–13; 8:45 am]

BILLING CODE 4120–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

**[Document Identifiers: CMS–10305, CMS–10488, CMS–R–71, CMS–R–10, CMS–10220 and CMS–855C]**

### Agency Information Collection Activities: Submission for OMB Review; Comment Request

**ACTION:** Notice.

**SUMMARY:** The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

**DATES:** Comments on the collection(s) of information must be received by the OMB desk officer by December 2, 2013:

**ADDRESSES:** When commenting on the proposed information collections, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be received by the OMB desk officer via one of the following transmissions: OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395–6974 *OR* Email: *OIRA_submission@omb.eop.gov.*

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*
2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*
3. Call the Reports Clearance Office at (410) 786–1326.

**FOR FURTHER INFORMATION CONTACT:** Reports Clearance Office at (410) 786–1326

**SUPPLEMENTARY INFORMATION:** Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title:* Medicare Part C and Part D Data Validation (42 CFR 422.516(g) and 423.514(g)); *Use:* Data collected via the Medicare Part C and Part D Reporting Requirements Technical Specifications is an integral resource for oversight, monitoring, compliance and auditing activities necessary to ensure quality provision of the Medicare benefits to beneficiaries. We use the data collected through the Medicare Data Validation Program to substantiate the data collected via Medicare Part C and Part D Reporting Requirements Technical Specifications. If we detect data anomalies, the CMS division with primary responsibility for the applicable reporting requirement assists with determining a resolution. *Form Number:* CMS–10305 (OCN: 0938–1115); *Frequency:* Yearly; *Affected Public:* Private sector—Business or other for-profit or Not-for-profit organizations; *Number of Respondents:* 208; *Total Annual Responses:* 657; *Total Annual Hours:* 179,301. (For policy questions regarding this collection contact Terry Lied at 410–786–8973.)

2. *Type of Information Collection Request:* New collection (Request for a new OMB control number); *Title of Information Collection:* Health Insurance Marketplace Consumer Experience Surveys: Enrollee Satisfaction Survey and Marketplace Survey Data Collection; *Use:* Section 1311(c)(4) of the Affordable Care Act (ACA) requires the Department of Health and Human Services (HHS) to develop an enrollee satisfaction survey system that assesses consumer experience with qualified health plans (QHPs) offered through an Exchange. It also requires public display of enrollee satisfaction information by the Exchange to allow individuals to easily compare enrollee satisfaction levels between comparable plans. The HHS intends to establish two surveys that assess consumer experience with the Marketplaces and the QHPs offered through the Marketplaces. The surveys will include topics to assess consumer experience with the Marketplace such as enrollment and customer service, as well as experience with the health care system such as communication skills of providers and ease of access to health care services. We are considering using the Consumer Assessment of Health Providers and Systems (CAHPS®) principles (*http://www.cahps.ahrq.gov/about.htm*) for developing the surveys. We have proposed an application and approval process for enrollee satisfaction survey vendors who want to participate in collecting ESS data. The application form for survey vendors includes information regarding organization name and contact(s) as well as minimum business requirements such as relevant survey experience, organizational survey capacity, and quality control procedures.

The Marketplace Survey will provide (1) Actionable information that the Marketplaces can use to improve performance, (2) information that CMS and state regulatory organizations can use for general oversight, and (3) a longitudinal database for future Marketplace research. The CAHPS® family of instruments does not have a survey that assesses entities similar to Marketplaces, so the Marketplace survey items were generated by the project team. The QHP Enrollee Experience survey will (1) help consumers choose among competing health plans, (2) provide actionable information that the QHPs can use to improve performance, (3) provide information that regulatory and accreditation organizations can use to regulate and accredit plans, and (4) provide a longitudinal database for consumer research. We plan to base the QHP survey on the CAHPS® Health Plan Survey.

We are planning for two rounds of developmental testing for the Marketplace and QHP surveys. The 2014 survey field tests will help

determine psychometric properties and provide an initial measure of performance for Marketplaces and QHPs to use for quality improvement. Based on field test results, there will be further refinement of the questionnaires and sampling designs to conduct the 2015 beta test of each survey. We plan to request clearance for two additional rounds of national implementation with reporting of scores for each survey in the future. A summary of findings from the testing rounds will be included when requesting clearance for the additional two rounds of national implementation in 2016 and 2017. In 2014, the total annual burden hours for the Marketplace and QHP Survey field tests are 34,668 hours with 93,802 responses. In 2015, the total annual burden hours for the Marketplace and QHP Survey beta tests are 267,460 hours with 661,241 responses. The total average annualized burden over three years for this requested information collection is 100,709 hours and the total average annualized number of responses is 251,681 responses. *Form Number:* CMS–10488 (OCN: 0938–NEW); *Frequency:* Annually; *Affected Public:* Public sector—Individuals and Households and Private sector—Business or other for-profits and Not-for-profit institutions; *Number of Respondents:* 251,681; *Total Annual Responses:* 251,681; *Total Annual Hours:* 100,709. (For policy questions regarding this collection contact Kathleen Jack at 410–786–7214.)

3. *Type of Information Collection Request:* Reinstatement with change of a previously approved collection; *Title of Information Collection:* Quality Improvement Organization (QIO) Assumption of Responsibilities and Supporting Regulations; *Use:* The Peer Review Improvement Act of 1982 amended Title XI of the Social Security Act to create the Utilization and Quality Control Peer Review Organization (PRO) program which replaces the Professional Standards Review Organization (PSRO) program and streamlines peer review activities. The term PRO has been renamed Quality Improvement Organization (QIO). This information collection describes the review functions to be performed by the QIO. It outlines relationships among QIOs, providers, practitioners, beneficiaries, intermediaries, and carriers. *Form Number:* CMS–R–71 (OCN: 0938–0445); *Frequency:* Yearly; *Affected Public:* Private sector—Business or other for-profit and Not-for-profit institutions; *Number of Respondents:* 6,939; *Total Annual Responses:* 50,377; *Total Annual Hours:* 158,993. (For policy questions regarding this collection contact Coles Mercier at 410–786–2112.)

4. *Type of Information Collection Request:* Reinstatement with change of a previously approved collection; *Title of Information Collection:* Advance Directives (Medicare and Medicaid) and Supporting Regulations; *Use:* The advance directives requirement was enacted because Congress wanted individuals to know that they have a right to make health care decisions and to refuse treatment even when they are unable to communicate. Steps have been taken at both the federal and state level, to afford greater opportunity for the individual to participate in decisions made concerning the medical treatment to be received by an adult patient in the event that the patient is unable to communicate to others, a preference about medical treatment. The individual may make his preference known through the use of an advance directive, which is a written instruction prepared in advance, such as a living will or durable power of attorney. This information is documented in a prominent part of the individual's medical record. Advance directives as described in the Patient Self-Determination Act have increased the individual's control over decisions concerning medical treatment. Sections 4206 of the Omnibus Budget Reconciliation Act of 1990 defined an advance directive as a written instruction recognized under State law relating to the provision of health care when an individual is incapacitated (those persons unable to communicate their wishes regarding medical treatment).

All states have enacted legislation defining a patient's right to make decisions regarding medical care, including the right to accept or refuse medical or surgical treatment and the right to formulate advance directives. Participating hospitals, skilled nursing facilities, nursing facilities, home health agencies, providers of home health care, hospices, religious nonmedical health care institutions, and prepaid or eligible organizations (including Health Care Prepayment Plans (HCPPs) and Medicare Advantage Organizations (MAOs) such as Coordinated Care Plans, Demonstration Projects, Chronic Care Demonstration Projects, Program of All Inclusive Care for the Elderly, Private Fee for Service, and Medical Savings Accounts must provide written information, at explicit time frames, to all adult individuals about: (a) The right to accept or refuse medical or surgical treatments; (b) the right to formulate an advance directive; (c) a description of applicable State law (provided by the State); and (d) the provider's or organization's policies and procedures for implementing an advance directive. *Form Number:* CMS–R–10 (OCN: 0938–0610); *Frequency:* Yearly; *Affected Public:* Private sector—Business or other for-profits; *Number of Respondents:* 39,575; *Total Annual Responses:* 39,575; *Total Annual Hours:* 2,836,441. (For policy questions regarding this collection contact Sonia Swancy at 410–786–8445.)

5. *Type of Information Collection Request:* Reinstatement with change of a previously approved collection; *Title of Information Collection:* Security Consent and Surrogate Authorization Form; *Use:* The primary function of the Medicare enrollment application is to obtain information about the Provider or supplier and whether they meet the Federal and/or State qualifications to participate in the Medicare program. In addition, the Medicare enrollment application gathers information regarding the provider or supplier's practice location, the identity of the owners of the enrolling organization, and information necessary to establish the correct claims payment.

Enrollees have the option of submitting either a CMS 855 form, or submitting information via a web based process. In establishing a web based application process, we allow providers and suppliers the ability to enroll in the Medicare program, revalidate their enrollment and make changes to their enrollment information via Internet-based Provider Enrollment, Chain and Ownership System (PECOS). Individual providers/suppliers (hereinafter referred to as ''Individual Providers'') log into Internet-based PECOS using their User IDs and passwords established when they applied on-line to the National Plan and Provider Enumeration System (NPPES) for their National Provider Identifiers (NPIs). Authorized Officials (AOs) of the provider or supplier organizations (hereinafter referred to as ''Organizational Providers'') must register for a user account and authenticate their identity and connection to the organization they represent before being able to log into Internet-based PECOS. Once authenticated, AOs for Organizational Providers, receive complete access to their enrollment information via Internet-based PECOS. Individuals and AOs of Organizational Providers are not required to submit a Security Consent and Surrogate Authorization Form to enroll, revalidate or make changes to their Medicare enrollment information.

Individual and Organizational Providers may complete their Medicare enrollment responsibilities on their own

or elect to delegate this task to a Surrogate. A Surrogate is an individual or organization identified by an Individual or Organizational Provider as someone authorized to access CMS computer systems, such as Internet-based PECOS, National Provider Plan and Enumeration System (NPPES) and the Medicare and Medicaid Electronic Health Records (EHR) Incentive Program Registration and Attestation System (HITECH), on their behalf and to modify or view any information contained therein that the Individual or Organizational Provider may have permission or right to access in accordance with Medicare statutes, regulations, policies, and usage guidelines for any CMS system. Surrogates may consist of administrative staff, independent contractors, 3rd party consulting companies or credentialing departments. In order for an Individual or Organizational Provider to delegate the Medicare credentialing process to a Surrogate to access and update their enrollment information in the above mentioned CMS systems on their behalf, it is required that a Security Consent and Surrogate Authorization Form be completed, or Individual and Organizational Providers use an equivalent online process via the PECOS Identity and Access Management (I&A) system. The Security Consent and Surrogate Authorization form replicates business service agreements between Medicare providers, suppliers or both and Surrogates providing enrollment services.

We are proposing one version of the Security Consent and Surrogate Authorization Form. The form, once signed, mailed and approved, grants a Surrogate access to all current and future enrollment data for the Individual or Organization Provider. *Form Number:* CMS–10220 (OCN: 0938–1035); *Frequency:* Occasionally; *Affected Public:* Individuals and Private Sector—Business or other for-profits and Not-for-profit institutions; *Number of Respondents:* 88,650; *Total Annual Responses:* 88,650; *Total Annual Hours:* 22,162. (For policy questions regarding this collection contact Alisha Banks at 410–786–0671.)

6. *Type of Information Collection Request:* New collection (Request for a new OMB control number); *Title of Information Collection:* Medicare Enrollment Application for Registration of Eligible Entities That Provide Health Insurance Coverage Complementary to Medicare Part B; *Use:* The primary function of a Medicare enrollment application is to gather information from a provider, supplier or other entity that tells us who it is, whether it meets certain qualifications to be a health care provider, supplier or entity, where it practices or renders its services, the identity of the owners of the enrolling entity, and information necessary to establish correct claims payments. We are adding a new CMS–855 Medicare Registration Application, the CMS–855C: Medicare Enrollment Application for Registration of Eligible Entities That Provide Health Insurance Coverage Complementary to Medicare Part B. This Medicare registration application is to be completed by all entities that provide a complimentary health benefit plan and intend to bill Medicare as an indirect payment procedure (IPP) biller and the entity or health plan meets all Medicare requirements to submit claims for indirect payments. The entity must furnish the name of at least one authorized official, preferably the administrator of the health plan, who must sign this registration application attesting that the registering entity meets the requirements to register as an indirect payment procedure biller and will also abide by the requirements stated in the Certification & Attestation Statement in Section 10 of the application.

The CMS–855C will be submitted at the time the applicant first requests a Medicare identification number for the sole purpose of submitting claims under the ''Indirect Payment Procedure (IPP)'' for reimbursement, and when necessary to report any changes to information previously submitted. The application will be used by Medicare contractors to collect data to ensure the applicant has the necessary credentials to submit Medicare claims for reimbursement, including information that allows Medicare contractors to ensure that the entity and its owners and administrators are not sanctioned from the Medicare program, or debarred, suspended or excluded from any other Federal agency or program. *Form Number:* CMS–855C (OCN: 0938—New); *Frequency:* Occasionally; *Affected Public:* Private sector—Business or other for-profits and Not-for-profit institutions; *Number of Respondents:* 440; *Total Annual Responses:* 440; *Total Annual Hours:* 500. (For policy questions regarding this collection contact Kim McPhillips at 410–786–5374.)

Dated: October 29, 2013.

**Martique Jones,**

*Deputy Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.*

[FR Doc. 2013–26107 Filed 10–31–13; 8:45 am]

BILLING CODE 4120–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

**[CMS–1462–N]**

### Medicare Program; Solicitation of Five Nominations to the Advisory Panel on Hospital Outpatient Payment (HOP, the Panel)

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

**ACTION:** Notice.

**SUMMARY:** This notice solicits nominations for five new members to the Advisory Panel on Hospital Outpatient Payment (HOP, the Panel). There are five vacancies on the Panel effective September 30, 2013.

The purpose of the Panel is to advise the Secretary of the Department of Health and Human Services and the Administrator of the Centers for Medicare & Medicaid Services on the clinical integrity of the Ambulatory Payment Classification (APC) groups and their associated weights, and supervision of hospital outpatient services.

The Secretary rechartered the Panel in 2012 for a 2-year period effective through November 19, 2014.

**DATES:** *Submission of Nominations:* We will consider nominations if they are received no later than 5 p.m. (e.s.t.) December 31, 2013.

**ADDRESSES:** Please mail or hand deliver nominations to the following address: Centers for Medicare & Medicaid Services; Attn: Chuck Braver, Advisory Panel on HOP; Center for Medicare, Hospital & Ambulatory Policy Group, Division of Outpatient Care; 7500 Security Boulevard; Mail Stop C4–05–17 Baltimore, MD 21244–1850.

*Web site:* For additional information on the Panel and updates to the Panel's activities, we refer readers to our Web site at the following address: *http://www.cms.gov/Regulations-and-Guidance/Guidance/FACA/AdvisoryPanelonAmbulatoryPaymentClassificationGroups.html.*

**FOR FURTHER INFORMATION CONTACT:** Persons wishing to nominate individuals to serve on the Panel or to obtain further information may contact Chuck Braver at the following email address: *APCPanel@cms.hhs.gov* or call (410) 786–3985.

*News Media:* Representatives should contact the CMS Press Office at (202) 690–6145.

**SUPPLEMENTARY INFORMATION:**

## I. Background

The Secretary of the Department of Health and Human Services (the Secretary) is required by section 1833(t)(9)(A) of the Social Security Act (the Act), and section 222 of the Public Health Service Act (PHS Act) to consult with an expert outside advisory panel regarding the clinical integrity of the Ambulatory Payment Classification (APC) groups and relative payment weights that are components of the Medicare Hospital Outpatient Prospective Payment System (OPPS), and the appropriate supervision level for hospital outpatient services. The Panel is governed by the provisions of the Federal Advisory Committee Act (FACA) (Pub. L. 92–463), as amended (5 U.S.C. Appendix 2), which sets forth standards for the formation and use of advisory panels. The panel may consider data collected or developed by entities and organizations (other than the Department of Health and Human Services) as part of their deliberations.

The Charter requires that the Panel meet up to three times annually. We consider the technical advice provided by the Panel as we prepare the proposed and final rules to update the OPPS for the following calendar year.

The Panel shall consist of a chair and up to 19 members who are full-time employees of hospitals, hospital systems, or other Medicare providers that are subject to the OPPS. (For purposes of the Panel, consultants or independent contractors are not considered to be full-time employees in these organizations.)

The current Panel members are as follows: (**Note:** The asterisk [*] indicates the Panel members whose terms end effective September 30, 2013.)

- E.L. Hambrick, M.D., J.D., Chair, a CMS Medical Officer.
- Karen Borman, M.D.
- Ruth L. Bush, M.D., M.P.H.*
- Lanny Copeland, M.D.
- Kari S. Cornicelli, C.P.A., FHFMA
- Dawn L. Francis, M.D., M.H.S.*
- David A. Halsey, M.D.*
- Brain D. Kavanagh, M.D., M.P.H.
- Scott Manaker, M.D., Ph.D.
- John Marshall, CRA, RCC, RT
- Jim Nelson
- Leah Osbahr
- Jacqueline Phillips
- Daniel J. Pothen, M.S., RHIA, CHPS, CPHIMS, CCS, CCS–P, CHC*
- Gregory J. Przbylski, M.D.*
- Traci Rabine
- Michael Rabovsky, M.D.
- Marianna V. Spanki-Varelas M.D., Ph.D., M.B.A.
- Gale Walker
- Kris Zimmer

Panel members serve without compensation, according to an advance written agreement; however, for the meetings, CMS reimburses travel, meals, lodging, and related expenses in accordance with standard Government travel regulations. CMS has a special interest in ensuring, while taking into account the nominee pool, that the Panel is diverse in all respects of the following: geography; rural or urban practice; race, ethnicity, sex, and disability; medical or technical specialty; and type of hospital, hospital health system, or other Medicare provider subject to the OPPS.

Based upon either self-nominations or nominations submitted by providers or interested organizations, the Secretary, or her designee, appoints new members to the Panel from among those candidates determined to have the required expertise. New appointments are made in a manner that ensures a balanced membership under the FACA guidelines.

## II. Criteria for Nominees

The Panel must be fairly balanced in its membership in terms of the points of view represented and the functions to be performed. Each Panel member must be employed full-time by a hospital, hospital system, or other Medicare provider subject to payment under the OPPS. All members must have technical expertise to enable them to participate fully in the Panel's work. Such expertise encompasses hospital payment systems; hospital medical care delivery systems; provider billing systems; APC groups; Current Procedural Terminology codes; and alpha-numeric Health Care Common Procedure Coding System codes; and the use of, and payment for, drugs, medical devices, and other services in the outpatient setting, as well as other forms of relevant expertise. For supervision deliberations, the Panel shall have members that represent the interests of Critical Access Hospitals (CAHs), who advise CMS only regarding the level of supervision for hospital outpatient services.

It is not necessary for a nominee to possess expertise in all of the areas listed, but each must have a minimum of 5 years experience and currently have full-time employment in his or her area of expertise. Generally, members of the Panel serve overlapping terms up to 4 years, based on the needs of the Panel and contingent upon the rechartering of the Panel. A member may serve after the expiration of his or her term until a successor has been sworn in.

Any interested person or organization may nominate one or more qualified individuals. Self-nominations will also be accepted. Each nomination must include the following:

- Letter of Nomination stating the reasons why the nominee should be considered.
- Curriculum vitae or resume of the nominee.
- Written and signed statement from the nominee that the nominee is willing to serve on the Panel under the conditions described in this notice and further specified in the Charter.
- The hospital or hospital system name and address, or CAH name and address, as well as all Medicare hospital and or Medicare CAH billing numbers of the facility where the nominee is employee.

## III. Copies of the Charter

To obtain a copy of the Panel's Charter, we refer readers to our Web site at the following: *http://www.cms.gov/Regulations-and-Guidance/Guidance/FACA/AdvisoryPanelonAmbulatoryPaymentClassificationGroups.html*.

## IV. Collection of Information Requirements

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 35).

(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance Program).

Dated: October 29, 2013.

**Marilyn Tavenner,**

*Administrator, Centers for Medicare & Medicaid Services.*

[FR Doc. 2013–26258 Filed 10–31–13; 8:45 am]

BILLING CODE 4120–01–P

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2013–N–1161]**

### Agency Information Collection Activities; Proposed Collection; Comment Request; Food Safety Survey

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA or we) is announcing an opportunity for public comment on our proposed collection of certain information. Under the Paperwork Reduction Act of 1995 (the

PRA), Federal Agencies must publish a notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement of an existing collection of information and allow 60 days for public comment. This notice invites comments on a voluntary consumer survey entitled, ''Food Safety Survey.''

**DATES:** Submit either written or electronic comments on the collection of information by December 31, 2013.

**ADDRESSES:** Submit electronic comments on the collection of information to *http://www.regulations.gov.* Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

**FOR FURTHER INFORMATION CONTACT:** FDA PRA Staff, Office of Operations, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, *PRAStaff@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:** Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, we are publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, we invite comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of our functions, including whether the information will have practical utility; (2) the accuracy of our estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

**Food Safety Survey—(OMB Control Number 0910–0345)—Reinstatement**

*I. Background*

Under section 903(b)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 393(b)(2)), we are authorized to conduct research relating to foods and to conduct educational and public information programs relating to the safety of the nation's food supply. The Food Safety Survey measures consumers' knowledge, attitudes, and beliefs about food safety. Previous versions of the survey were collected in 1988, 1993, 1998, 2001, 2006, and 2010. Data from the previous Food Safety Surveys and from this proposed survey will be used to evaluate two Healthy People 2020 objectives: (1) Increase the proportion of consumers who follow key food safety practices (Objective FS–5), and (2) reduce severe allergic reactions to food among adults with a food allergy diagnosis (Objective FS–4) (Ref. 1). Data from this survey will also be used to measure progress toward the United States Department of Agriculture's Food Safety Inspection Service's FY2011–FY2016 Strategic Plan goal of ensuring that, ''Consumers, including vulnerable and underserved populations, adopt food safety best practices'' (Ref. 2). Additionally, Food Safety Survey data are used to measure trends in consumer food safety habits including hand and cutting board washing, cooking practices, and use of food thermometers. Finally, data are used to evaluate educational messages and to inform policymakers about consumer attitudes about technologies such as food irradiation and biotechnology.

The proposed Food Safety Survey will contain many of the same questions and topics as previous Food Safety Surveys to facilitate measuring trends in food safety knowledge, attitudes, and behaviors over time. The proposed survey will also be updated to explore emerging consumer food safety topics and expand understanding of previously asked topics. For example, recent papers in both the United States (Ref. 3) and Europe (Refs. 4 and 5) have pointed to changing epidemiology of listeriosis where adults over 60 years old have the highest rates of the illness. One reason for the increase in listeriosis rates among those over 60 years old could be increasing host susceptibility due to widened use of immunocompromising medications. We plan to include questions on the proposed survey to document the proportion of those over 60 years old who self-report taking a defined list of major immunocompromising medications. In conjunction with our established questions about safe food handling and eating potentially risky foods, the additional questions will expand our understanding of listeriosis among those over 60. Other new topics planned to be covered on the survey include: Consumer understanding of mechanically tenderized beef, awareness of foodborne pathogens such as *Toxoplasma gondii,* and awareness of the risks associated with eating raw sprouts.

The methods for the proposed Food Safety Survey will be largely the same as those used with the previous Food Safety Surveys. One major difference is that, unlike the data collection mode for previous Food Safety Surveys that used only land telephone lines, the proposed survey will include cell phones in addition to landlines. A nationally representative sample of 4,000 adults (2,400 landline and 1,600 cell phone) will be selected at random for the telephone interviews. The survey will also include an oversample of Hispanics and Blacks to ensure a minimum of 400 each. Additionally, 50 non-respondents will be asked to participate in a short version of the survey from which we will conduct a non-response analysis. Participation in the survey will be voluntary. Cognitive interviews and a pre-test will be conducted prior to fielding the survey.

FDA estimates the burden of this collection of information as follows:

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 |
|---|---|---|---|---|---|
| Cognitive interview screener | 75 | 1 | 75 | 0.083 (5 mins.) | 6 |
| Cognitive interview | 9 | 1 | 9 | 1. (60 mins.) | 9 |

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]—Continued

| Activity | Number of respondents | Number of responses per respondent | Total annual responses | Average burden per response | Total hours |
|---|---|---|---|---|---|
| Pretest screener | 45 | 1 | 45 | 0.0167 (1 min.) | 1 |
| Pretest | 18 | 1 | 18 | 0.33 (20 mins.) | 6 |
| Survey screener | 10,000 | 1 | 10,000 | 0.0167 (1 min.) | 167 |
| Survey | 4,000 | 1 | 4,000 | 0.33 (20 mins) | 1320 |
| Non-response survey screener | 125 | 1 | 125 | 0.0167 (1 min.) | 2 |
| Non-response survey | 50 | 1 | 50 | 0.1 (10 mins.) | 5 |
| Total | | | | | 1516 |

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

FDA's burden estimate is based on the Agency's prior experience with the Food Safety Survey.

*II. References*


1. U.S. Department of Health and Human Services, ''Healthy People 2020—Improving the Lives of Americans,'' July 30, 2013. Available at *http://www.healthypeople.gov/2020/default.aspx*.
2. U.S. Department of Agriculture, Food Safety Inspection Service, ''Strategic Plan FY 2011–2016,'' April 6, 2012. Available at *http://www.fsis.usda.gov/wps/portal/informational/aboutfsis/strategic-planning/fy-2011-2016-strategic-plan/ct_index*.
3. Pouillot, R., Hoelzer, K., Jackson, K.A., Henao, O.L. and Silk, B.J. ''Relative Risk of Listeriosis in Foodborne Diseases Active Surveillance Network (FoodNet) Sites According to Age, Pregnancy, and Ethnicity,'' *Clinical Infectious Diseases,* 54(S5): S401–410, 2012.
4. Goulet, V., Hedberg, C., Le Monnier A. and de Valk, H. ''Increasing Incidence of Listeriosis in France and other European Countries,'' *Emerging Infectious Diseases,* 14(5): 734–740, 2008.
5. Muñoz, P., Rojas, L., Bunsow, E., Saez, E., Sánchez-Cambronero, L., Alcalá, L., Rogríguez-Creixems, M. and Bouza, E. ''Listeriosis: An Emerging Public Health Problem Especially Among the Elderly,'' *Journal of Infection,* 64: 19–33, 2012.


Dated: October 25, 2013.

**Leslie Kux,**

*Assistant Commissioner for Policy.*

[FR Doc. 2013–25976 Filed 10–31–13; 8:45 am]

BILLING CODE 4160–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2013–N–1155]**

### Agency Information Collection Activities; Proposed Collection; Comment Request; Food Labeling Regulations

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA or we) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection provisions of our food labeling regulations and on Form FDA 3570, Model Small Business Nutrition Labeling Exemption Notice, which small businesses may use to claim the small business exemption from nutrition labeling.

**DATES:** Submit either electronic or written comments on the collection of information by December 31, 2013.

**ADDRESSES:** Submit electronic comments on the collection of information to *http://www.regulations.gov.* Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

**FOR FURTHER INFORMATION CONTACT:** FDA PRA Staff, Office of Operations, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, *PRAStaff@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:** Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, we are publishing this notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, we invite comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of our functions, including whether the information will have practical utility; (2) the accuracy of our estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

**Food Labeling Regulations—21 CFR Parts 101, 102, 104, and 105 (OMB Control Number 0910–0381)—Revision To Include Collections Previously Approved by OMB, but Currently in Use Without Approval**

Our food labeling regulations require food producers to disclose to consumers and others specific information about themselves or their products on the label or labeling of their products. Related regulations require that food producers retain records establishing the basis for the information contained in the label or labeling of their products and provide those records to regulatory officials. Finally, certain regulations

provide for the submission of food labeling petitions to us. We issued our food labeling regulations under parts 101, 102, 104, and 105 (21 CFR parts 101, 102, 104, and 105) under the authority of sections 4, 5, and 6 of the Fair Packaging and Labeling Act (the FPLA) (15 U.S.C. 1453, 1454, and 1455) and sections 201, 301, 402, 403, 409, 411, 701, and 721 of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 321, 331, 342, 343, 348, 350, 371, and 379e). Most of these regulations derive from section 403 of the FD&C Act, which provides that a food product shall be deemed to be misbranded if, among other things, its label or labeling fails to bear certain required information concerning the food product, is false or misleading in any particular, or bears certain types of unauthorized claims. The disclosure requirements and other collections of information in the regulations in parts 101, 102, 104, and 105 are necessary to ensure that food products produced or sold in the United States are in compliance with the labeling provisions of the FD&C Act and the FPLA.

Upon review of the information collection requests supporting these food labeling regulations, FDA found that the third party disclosure burdens associated with the requirements found in §§ 101.9(c)(2)(ii) and 101.36(b)(2) to declare the amount of *trans* fatty acids present in a food, and with the voluntary declaration of the quantitative amount and the percent of Daily Value of a dietary ingredient on a ''per day'' basis in addition to the required ''per serving'' basis, are in use without current OMB approval. These collections of information were previously approved by OMB under control numbers 0910–0515 and 0910–0395 respectively, however the approval periods for these collections have expired. To remedy this oversight, to most appropriately streamline these information collections, and to eliminate redundancy in our information collection requests, we seek to revise the instant collection to include these third party disclosure elements and have included them in the burden estimates and discussion in this document in support of our approval request for OMB control number 0910–0381.

Section 101.3 of our food labeling regulations requires that the label of a food product in packaged form bear a statement of identity (i.e., the name of the product), including, as appropriate, the form of the food or the name of the food imitated. Section 101.4 prescribes requirements for the declaration of ingredients on the label or labeling of food products in packaged form. Section 101.5 requires that the label of a food product in packaged form specify the name and place of business of the manufacturer, packer, or distributor and, if the food producer is not the manufacturer of the food product, its connection with the food product. Section 101.9 requires that nutrition information be provided for all food products intended for human consumption and offered for sale, unless an exemption in § 101.9(j) applies to the product. In particular, § 101.9(c)(2)(ii) requires that the amount of *trans* fatty acids present in a food must be declared on the nutrition label on a separate line immediately under the line for the declaration of saturated fat. Section 101.9(g)(9) provides that interested parties may submit to us requests for alternative approaches to nutrition labeling requirements. Finally, § 101.9(j)(18) provides that firms claiming the small business exemption from nutrition labeling must submit notice to us supporting their claim exemption. We developed Form FDA 3570 to assist small businesses in claiming the small business exemption from nutrition labeling. The form contains all the elements required by § 101.9(j)(18).

Section 101.10 requires that restaurants provide nutrition information, upon request, for any food or meal for which a nutrient content claim or health claim is made. Section 101.12(b) provides the reference amount that is used for determining the serving sizes for specific products, including baking powder, baking soda, and pectin. Section 101.12(e) provides that a manufacturer that adjusts the reference amount customarily consumed (RACC) of an aerated food for the difference in density of the aerated food relative to the density of the appropriate nonaerated reference food must be prepared to show us detailed protocols and records of all data that were used to determine the density-adjusted RACC. Section 101.12(g) requires that the label or labeling of a food product disclose the serving size that is the basis for a claim made for the product if the serving size on which the claim is based differs from the RACC. Section 101.12(h) provides for the submission of petitions requesting that we change the reference amounts defined by regulation.

Section 101.13 requires that nutrition information be provided in accordance with § 101.9 for any food product for which a nutrient content claim is made. Under some circumstances, § 101.13 also requires the disclosure of other types of information as a condition for the use of a nutrient content claim. For example, under § 101.13(j), if the claim compares the level of a nutrient in the food with the level of the same nutrient in another ''reference'' food, the claim must also disclose the identity of the reference food, the amount of the nutrient in each food, and the percentage or fractional amount by which the amount of the nutrient in the labeled food differs from the amount of the nutrient in the reference food. It also requires that when this comparison is based on an average of food products, this information must be provided to consumers or regulatory officials upon request. Section 101.13(q)(5) requires that restaurants document and provide to appropriate regulatory officials, upon request, the basis for any nutrient content claims they have made for the foods they sell.

Section 101.14(d)(2) and (d)(3) provides for the disclosure of nutrition information in accordance with § 101.9 and, under some circumstances, certain other information as a condition for making a health claim for a food product. Section 101.15 provides that, if the label of a food product contains any representation in a foreign language, all words, statements, and other information required by or under authority of the FD&C Act to appear on the label must appear in both the foreign language and in English. Section 101.22 contains labeling requirements for the disclosure of spices, flavorings, colorings, and chemical preservatives in food products. Section 101.22(i)(4) sets forth disclosure and recordkeeping requirements pertaining to certifications for flavors designated as containing no artificial flavors. Section 101.30 specifies the conditions under which a beverage that purports to contain any fruit or vegetable juice must declare the percentage of juice present in the beverage and the manner in which the declaration is to be made.

Section 101.36 requires that nutrition information be provided for dietary supplements offered for sale, unless an exemption in § 101.36(h) applies. In particular, § 101.36(b)(2) requires that the amount of *trans* fatty acids present in dietary supplements must be declared on the nutrition label on a separate line immediately under the line for the declaration of saturated fat. Section 101.36(e) permits the voluntary declaration of the quantitative amount and the percent of Daily Value of a dietary ingredient on a ''per day'' basis in addition to the required ''per serving'' basis, if a dietary supplement label recommends that the dietary supplement be consumed more than once per day. Section 101.36(f)(2) cross-

references the provisions in § 101.9(g)(9) for the submission to us of requests for alternative approaches to nutrition labeling requirements. Also, § 101.36(h)(2) cross-references the provisions in § 101.9(j)(18) for the submission of small business exemption notices. As noted previously in this document, we developed Form FDA 3570 to assist small businesses in claiming the small business exemption from nutrition labeling. The form contains all the elements required by § 101.36(h)(2).

Section 101.42 requests that food retailers voluntarily provide nutrition information for raw fruits, vegetables, and fish at the point of purchase, and § 101.45 contains guidelines for providing such information. Also, § 101.45(c) provides for the submission to us of nutrient databases and proposed nutrition labeling values for raw fruit, vegetables, and fish for review and approval.

Sections 101.54, 101.56, 101.60, 101.61, and 101.62 specify information that must be disclosed as a condition for making particular nutrient content claims. Section 101.67 provides for the use of nutrient content claims for butter, and cross-references requirements in other regulations for information declaration (§ 101.4) and disclosure of information concerning performance characteristics (§ 101.13(d)). Section 101.69 provides for the submission of a petition requesting that we authorize a particular nutrient content claim by regulation. Section 101.70 provides for the submission of a petition requesting that we authorize a particular health claim by regulation. Section 101.77(c)(2)(ii)(D) requires the disclosure of soluble fiber per serving in the nutrition labeling of a food bearing a health claim about the relationship between soluble fiber and a reduced risk of coronary heart disease. Section 101.79(c)(2)(iv) requires the disclosure of the amount of folate in the nutrition label of a food bearing a health claim about the relationship between folate and a reduced risk of neural tube defects.

Section 101.100(d) provides that any agreement that forms the basis for an exemption from the labeling requirements of section 403(c), (e), (g), (h), (i), (k), and (q) of the FD&C Act be in writing and that a copy of the agreement be made available to us upon request. Section 101.100 also contains reporting and disclosure requirements as conditions for claiming certain labeling exemptions (e.g., 101.100(h)).

Section 101.105 specifies requirements for the declaration of the net quantity of contents on the label of a food in packaged form and prescribes conditions under which a food whose label does not accurately reflect the actual quantity of contents may be sold, with appropriate disclosures, to an institution operated by a Federal, State or local government. Section 101.108 provides for the submission to us of a written proposal requesting a temporary exemption from certain requirements of §§ 101.9 and 105.66 for the purpose of conducting food labeling experiments with our authorization.

Regulations in part 102 define the information that must be included as part of the statement of identity for particular foods and prescribe related labeling requirements for some of these foods. For example, § 102.22 requires that the name of a protein hydrolysate will include the identity of the food source from which the protein was derived.

Part 104, which pertains to nutritional quality guidelines for foods, cross-references several labeling provisions in part 101 but contains no separate information collection requirements.

Part 105 contains special labeling requirements for hypoallergenic foods, infant foods, and certain foods represented as useful in reducing or maintaining body weight.

The purpose of our food labeling requirements is to allow consumers to be knowledgeable about the foods they purchase. Nutrition labeling provides information for use by consumers in selecting a nutritious diet. Other information enables a consumer to comparison shop. Ingredient information also enables consumers to avoid substances to which they may be sensitive. Petitions or other requests submitted to us provide the basis for us to permit new labeling statements or to grant exemptions from certain labeling requirements. Recordkeeping requirements enable us to monitor the basis upon which certain label statements are made for food products and whether those statements are in compliance with the requirements of the FD&C Act or the FPLA.

*Description of Respondents:* Respondents to this information collection are manufacturers, packers, and distributors of food products. Because of the existence of exemptions and exceptions, not all of the requirements apply to all food producers or to all of their products. Some of the regulations affect food retailers, such as supermarkets and restaurants.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL THIRD PARTY DISCLOSURE BURDEN [1]

| 21 CFR section | Number of respondents | Number of disclosures per respondent | Total annual disclosures | Average burden per disclosure | Total hours |
|---|---|---|---|---|---|
| 101.3, 101.22, 102, and 104; statement of identity labeling requirements | 25,000 | 1.03 | 25,750 | 0.5 | 12,875 |
| 101.4, 101.22, 101.100, 102, 104, and 105; ingredient labeling requirements | 25,000 | 1.03 | 25,750 | 1 | 25,750 |
| 101.5; requirement to specify the name and place of business of the manufacturer, packer, or distributor and, if the food producer is not the manufacturer of the food product, its connection with the food product | 25,000 | 1.03 | 25,750 | 0.25 | 6,438 |
| 101.9, 101.13(n), 101.14(d)(3), 101.62, and 104; labeling requirements for disclosure of nutrition information | 25,000 | 1.03 | 25,750 | 4 | 103,000 |
| 101.9(g)(9) and 101.36(f)(2); alternative means of compliance permitted | 12 | 1 | 12 | 4 | 48 |
| 101.10; requirements for nutrition labeling of restaurant foods | 300,000 | 1.5 | 450,000 | 0.25 | 112,500 |
| 101.12(b); RACC for baking powder, baking soda and pectin | 29 | 2.3 | 67 | 1 | 67 |

TABLE 1—ESTIMATED ANNUAL THIRD PARTY DISCLOSURE BURDEN [1]—Continued

| 21 CFR section | Number of respondents | Number of disclosures per respondent | Total annual disclosures | Average burden per disclosure | Total hours |
|---|---|---|---|---|---|
| 101.12(e); adjustment to the RACC of an aerated food permitted | 25 | 1 | 25 | 1 | 25 |
| 101.12(g); requirement to disclose the serving size that is the basis for a claim made for the product if the serving size on which the claim is based differs from the RACC | 5,000 | 1 | 5,000 | 1 | 5,000 |
| 101.13(d)(1) and 101.67; requirements to disclose nutrition information for any food product for which a nutrient content claim is made | 200 | 1 | 200 | 1 | 200 |
| 101.13(j)(2), 101.13(k), 101.54, 101.56, 101.60, 101.61, and 101.62; additional disclosure required if the nutrient content claim compares the level of a nutrient in one food with the level of the same nutrient in another food | 5,000 | 1 | 5,000 | 1 | 5,000 |
| 101.13(q)(5); requirement that restaurants disclose the basis for nutrient content claims made for their food | 300,000 | 1.5 | 450,000 | 0.75 | 337,500 |
| 101.14(d)(2); general requirements for disclosure of nutrition information related to health claims for food products | 300,000 | 1.5 | 450,000 | 0.75 | 337,500 |
| 101.15; requirements pertaining to prominence of required statements and use of foreign language | 160 | 10 | 1,600 | 8 | 12,800 |
| 101.22(i)(4); supplier certifications for flavors designated as containing no artificial flavors | 25 | 1 | 25 | 1 | 25 |
| 101.30 and 102.33; labeling requirements for fruit or vegetable juice beverages | 1,500 | 5 | 7,500 | 1 | 7,500 |
| 101.36; nutrition labeling of dietary supplements | 300 | 40 | 12,000 | 4.025 | 48,300 |
| 101.42 and 101.45; nutrition labeling of raw fruits, vegetables, and fish | 1,000 | 1 | 1,000 | 0.5 | 500 |
| 101.45(c); databases of nutrient values for raw fruits, vegetables, and fish | 5 | 4 | 20 | 4 | 80 |
| 101.79(c)(2)(i)(D); disclosure requirements for food labels that contain a folate/neural tube defect health claim | 1,000 | 1 | 1,000 | 0.25 | 250 |
| 101.79(c)(2)(iv); disclosure of amount of folate for food labels that contain a folate/neural tube defect health claim | 100 | 1 | 100 | 0.25 | 25 |
| 101.100(d); disclosure of agreements that form the basis for exemption from the labeling requirements of section 403(c), (e), (g), (h), (i), (k), and (q) of the FD&C Act | 1,000 | 1 | 1,000 | 1 | 1,000 |
| 101.105 and 101.100(h); disclosure requirements for food not accurately labeled for quantity of contents and for claiming certain labeling exemptions | 25,000 | 1.03 | 25,750 | 0.5 | 12,875 |
| Total | | | | | 1,029,258 |

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

| 21 CFR section | Number of recordkeepers | Number of records per recordkeeper | Total annual records | Average burden per recordkeeping | Total hours |
|---|---|---|---|---|---|
| 101.12(e); recordkeeping to document the basis for density-adjusted RACC | 25 | 1 | 25 | 1 | 25 |
| 101.13(q)(5); recordkeeping to document the basis for nutrient content claims | 300,000 | 1.5 | 450,000 | 0.75 | 337,500 |
| 101.14(d)(2); recordkeeping to document nutrition information related to health claims for food products | 300,000 | 1.5 | 450,000 | 0.75 | 337,500 |
| 101.22(i)(4); recordkeeping to document supplier certifications for flavors designated as containing no artificial flavors | 25 | 1 | 25 | 1 | 25 |
| 101.100(d)(2); recordkeeping pertaining to agreements that form the basis for an exemption from the labeling requirements of section 403(c), (e), (g), (h), (i), (k), and (q) of the FD&C Act | 1,000 | 1 | 1,000 | 1 | 1,000 |

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]—Continued

| 21 CFR section | Number of recordkeepers | Number of records per recordkeeper | Total annual records | Average burden per recordkeeping | Total hours |
|---|---|---|---|---|---|
| 101.105(t); recordkeeping pertaining to disclosure requirements for food not accurately labeled for quantity of contents | 100 | 1 | 100 | 1 | 100 |
| Total | | | | | 676,150 |

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 3—ESTIMATED ANNUAL REPORTING BURDEN [1]

| 21 CFR section/form No. | Number of respondents | Number of responses per respondent | Total annual responses | Average burden per response | Total hours |
|---|---|---|---|---|---|
| 101.9(j)(18) and 101.36(h)(2); procedure for small business nutrition labeling exemption notice using Form FDA 3570 | 10,000 | 1 | 10,000 | 8 | 80,000 |
| 101.12(h); petitions to establish or amend a RACC | 5 | 1 | 5 | 80 | 400 |
| 101.69; petitions for nutrient content claims | 3 | 1 | 3 | 25 | 75 |
| 101.70; petitions for health claims | 5 | 1 | 5 | 80 | 400 |
| 101.108; written proposal for requesting temporary exemptions from certain regulations for the purpose of conducting food labeling experiments | 1 | 1 | 1 | 40 | 40 |
| Total | | | | | 80,915 |

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The estimated annual third party disclosure, recordkeeping, and reporting burdens are based on our communications with industry and our knowledge of and experience with food labeling and the submission of petitions and requests to us.

As noted, we are revising this collection to include previously approved third party disclosure burdens associated with the requirement to declare the amount of *trans* fatty acids present in a food, including dietary supplements. The third party disclosure burden hours formerly associated with OMB control number 0910–0515 (collection titled, ''Food Labeling: *Trans* Fatty Acids in Nutrition Labeling'') are represented by the citation to § 101.9 on line 4 of table 1 and the citation to § 101.36 on line 17 of table 1. For this revision, we have not added burden hours to line 4 or line 17 of table 1 because, based on our experience with food labeling, the 4 hours estimated for meeting the labeling requirements of § 101.9 and the 4 hours estimated for meeting the labeling requirements of § 101.36 are appropriate estimates of the total time it takes a respondent to meet our requirements for nutrition labeling in §§ 101.9 and 101.36.

We are also revising this collection to include previously approved third party disclosure burdens associated with the voluntary declaration of the quantitative amount and the percent of Daily Value of a dietary ingredient on a ''per day'' basis in addition to the required ''per serving'' basis. The third party disclosure burden hours formerly associated with OMB control number 0910–0395 (collection titled, ''Food Labeling: Nutrition Labeling of Dietary Supplements on a 'Per Day' Basis'') are represented by the citation to § 101.36 on line 17 of table 1 and the addition of 300 hours to our previous estimate of 48,000 hours. For this revision, we added 300 burden hours to line 17 of table 1 because voluntary labeling on a ''per day'' basis is in addition to the required ''per serving'' basis. We estimate that ''per day'' information would generally be placed on at most 10 percent of the estimated 12,000 disclosures, for a total of 1,200 annual disclosures, and that a respondent will spend 15 minutes (0.25 hours) per disclosure, for a total of 300 hours. Thus, the total estimated burden on line 17 of table 1 is 48,300 hours and average burden per disclosure on line 17 of table 1 has been increased from 4.0 to 4.025 hours, to represent an averaging of the burden hours across all of the estimated 12,000 disclosures.

We expect that the burden hours for submissions under § 101.108 will be insignificant. Section 101.108 was originally issued to provide a procedure whereby we could grant exemptions from certain food labeling requirements. Exemption petitions have infrequently been submitted in the recent past; none have been submitted since publication on January 6, 1993, of the final regulations implementing section 403(q) and (r) of the FD&C Act. Thus, in order to maintain OMB approval of § 101.108 to accommodate the possibility that a food producer may propose to conduct a labeling experiment on its own initiative, we estimate that we will receive one or fewer submissions under § 101.108 in the next 3 years.

Dated: October 28, 2013.

**Leslie Kux,**

*Assistant Commissioner for Policy.*

[FR Doc. 2013–25975 Filed 10–31–13; 8:45 am]

BILLING CODE 4160–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2010–D–0283]**

### Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Guidance for Industry on Chemistry, Manufacturing, and Controls Postapproval Manufacturing Changes To Be Documented in Annual Reports

**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 (the PRA).

**DATES:** Fax written comments on the collection of information by December 2, 2013.

**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 title. 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, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, *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: ''Guidance for Industry on CMC Postapproval Manufacturing Changes To Be Documented in Annual Reports.'' This guidance provides recommendations to holders of new drug applications (NDAs) and abbreviated new drug applications (ANDAs) regarding the types of chemistry, manufacturing, and controls (CMC) postapproval manufacturing changes that FDA has determined will likely have a minimal potential to have an adverse effect on product quality (i.e., drug product identity, strength, quality, purity, or potency), and therefore, should be documented by applicants in an annual report under 21 CFR 314.70(d).

*Description of Respondents:* Respondents to this collection of information are applicants of approved NDAs and ANDAs for finished drug products and active pharmaceutical ingredients (APIs) intended for human use.

*Burden Estimate:* The number of CMC manufacturing supplements for NDAs and ANDAs has continued to increase over the last several years. In connection with FDA's Pharmaceutical Product Quality Initiative and its risk-based approach to CMC review, FDA has evaluated the types of changes that have been submitted in CMC postapproval manufacturing supplements and determined that many of the changes being reported present low risk to the quality of the product and do not need to be submitted in supplements. Based on the risk-based evaluation, FDA developed a list (attached as Appendix in the ''Guidance for Industry on CMC Postapproval Manufacturing Changes To Be Documented in Annual Reports'') to provide additional current recommendations to companies regarding some postapproval manufacturing changes for NDAs and ANDAs that may be considered to have a minimal potential to have an adverse effect on product quality, and, therefore, may be classified as a change to be documented in the next annual report (i.e., notification of a change after implementation) rather than in a supplement.

FDA is requesting OMB approval for the information collection reduction resulting from the annual submissions, as required by §§ 314.70, 314.71, 314.81(b)(2), and 314.97 (21 CFR 314.70, 314.71, 314.81(b)(2), and 314.97), described in this document. Sections 314.70 and 314.71 require that supplements be submitted to FDA for certain changes to an approved application. Section 314.81(b)(2) requires that annual reports be submitted to FDA (Form FDA 2252). Section 314.97 sets forth requirements for submitting supplements to an approved ANDA for changes that require FDA approval. In addition, § 314.98(c) requires annual reports and other post-marketing reports for ANDAs. The estimate for annual reports for ANDAs is included under § 314.81(b)(2). Other postmarketing reports under § 314.98 are not affected by this notice.

The guidance describes our current thinking on the interpretation of these requirements. Part of the intent for the guidance is to reduce the burden of reporting some manufacturing changes. Currently, for postapproval changes considered to be major, applicants must submit and receive FDA approval of a supplemental application to the NDA or ANDA before the product made with the manufacturing change is distributed. If a change is considered to be moderate, an applicant must submit a supplement at least 30 days before the product is distributed or, in some cases, submit a supplement at the time of distribution. If a change is considered to be minor, an applicant may proceed with the change, but must notify FDA of the change in the annual report. The guidance describes the types of postapproval changes that applicants of NDAs and ANDAs currently submit in supplements to NDAs or ANDAs but that, under the guidance, may now be documented in annual reports. As a result, applicants would no longer need to submit supplements for such changes.

FDA currently has OMB approval for the collection of information entitled ''Application for Food and Drug Administration Approval to Market a New Drug'' (OMB Control Number 0910–0001). This collection of information includes the requirements imposed by the regulations under 21 CFR part 314 on applicants who apply for approval of an NDA or ANDA to market or change an approved application. In particular, among other things, this collection of information includes: (1) The submission of supplements to FDA for certain changes to an approved application in accordance with §§ 314.70 and 314.71; (2) the submission of annual reports to FDA (Form FDA 2252) in accordance with § 314.81(b)(2); (3) the submission of supplements to an approved ANDA for changes that require FDA approval; and (4) other postmarketing reports for ANDAs in accordance with § 314.98(c), of which the estimate for annual reports is included under § 314.81(b)(2). Therefore, this information collection includes the supplements to NDAs and ANDAs and the annual reports for NDAs and ANDAs that are described in the guidance.

Under the applicable regulations and the guidance, the following changes would occur to the current approval by OMB under the PRA for supplements to NDAs under §§ 314.70 and 314.71 and supplements to ANDAs under § 314.97. Although the submission of supplements to NDAs and ANDAs is approved under OMB Control Number 0910–0001, the total number of supplements submitted per year is estimated to reduce based on the recommendations in the guidance because certain changes submitted as supplements would now be documented in annual reports. Therefore, for such changes, the information collection with respect to the submission of supplements will be reduced. Because the number of supplements per year is estimated to reduce, the total number of hours for preparing supplements would correspondingly reduce. In the **Federal Register** of June 25, 2010 (75 FR 36421), FDA published the notice of availability for the draft guidance, including the information collection analysis required under the PRA. We received the following comments that pertained to the collection of information resulting from the guidance.

*Comments on Issue One:* Several comments noted that, in addition to FDA regulations on postapproval changes at §§ 314.70 and 314.71, FDA has issued multiple guidances that provide recommendations on how the Agency wishes to be notified of postapproval changes. These guidances include the ''Guidance for Industry on Changes to an Approved NDA or ANDA,'' the ''Guidance for Industry on Changes to an Approved NDA or ANDA—Questions and Answers,'' the ''Guidance for Industry on Scale-Up and PostApproval Changes (SUPAC),'' the ''Guidance for Industry on Bulk Active Chemicals—Postapproval Changes II (BACPAC),'' the ''Draft Guidance for Industry on CMC Postapproval Manufacturing Changes Reportable in Annual Reports'' (the guidance that is the subject of this **Federal Register** notice), and others.

The comments said that this adds duplication, complexity, redundancy, and the potential for confusion to the postapproval CMC regulatory environment. For example, the comments noted that while some of the changes described in the ''Draft Guidance for Industry on CMC Postapproval Manufacturing Changes Reportable in Annual Reports'' are already included in the existing ''Guidance for Industry on Changes to an Approved NDA or ANDA,'' other changes to be documented in annual reports such as a move to a different manufacturing site for secondary packaging and labeling described in the ''Guidance for Industry on Changes to an Approved NDA or ANDA'' are not contained in the ''Draft Guidance for Industry on CMC Postapproval Manufacturing Changes Reportable in Annual Reports.''

The comments recommended that all CMC changes to be documented in annual reports be consolidated into a single, updated guidance document to help ensure consistency, avoid confusion, and simplify the process for assessing change. The comments also recommended that the ''Draft Guidance for Industry on CMC Postapproval Manufacturing Changes Reportable in Annual Reports'' be withdrawn and that its recommendations be incorporated into an updated version of the ''Guidance for Industry on Changes to an Approved NDA or ANDA.''

*FDA Response on Issue One:* The ''Final Guidance for Industry on CMC Postapproval Manufacturing Changes To Be Documented in Annual Reports'' now includes Appendices A and B, which provides examples of chemistry, manufacturing, and control-related postapproval changes to be documented in annual reports. Section V. ''Resources'' of the guidance lists other previously published CMC guidances in which CMC changes to be documented in annual reports also are mentioned, along with changes that are required to be documented according to § 314.70(b) and (c).

*Comments on Issue Two:* Several comments said that some of the examples given in the draft guidance for changes previously submitted under manufacturing supplements that should now be documented in an annual report (because the Agency has determined those change to be of generally low risk to product quality) are problematic because some of these changes are current good manufacturing practice changes (CGMPs) and would not have previously been reported at all but kept on file for FDA inspection. The comments said that changes that do not have an adverse effect on product quality data can be made available to FDA on request or during an inspection and do not need to be documented in the annual report. The comment said that the recommendations of the draft guidance to document these changes in the annual report will increase, not reduce, industry's regulatory reporting burden.

In addition, the comments noted that the draft guidance's recommendation that CMC changes to be documented in annual reports be supported by, among other things, a reference to affected validation protocols, standard operating procedures, and policies also would increase industry's regulatory reporting burden because these documents are frequently updated and revised, and FDA's CGMP regulations require this information to be kept on file and presented to FDA on request or during an inspection.

*FDA Response on Issue Two:* The guidance clarifies that executed batch records, standard operating procedures (SOPs), and data from studies and tests performed to assess the effects of each change listed in Appendix A should be kept on file and made available to the Agency on request (e.g., during an inspection). Section IV. ''Contents of Annual Report Notification'' of the guidance has been revised from the draft guidance to address many of industry's comments stated in the previous paragraph. Summary of data, cross references to change control and change validation protocols, and SOPs that were used to assess or demonstrate the effect of the change are recommended for inclusion in the annual report. These are expected to allow the Agency to efficiently determine whether the appropriate reporting category has been used.

*Comments on Issue Three:* One comment said that many of the recommendations found in Appendix A, Sections 1–3 of the draft guidance (Components and Composition, Manufacturing Sites, and Manufacturing Process) reference information that FDA regulations do not require. The comment said that this may result in an overly conservative approach to annual reports and the submission of a large amount of unnecessary information. As an example, the comment said that Appendix A, Section 1.2 (lines 147–149) of the draft guidance states that the following can be documented in an annual report: ''New supplier of inactive ingredients that have a minimal effect on product performance in the drug product, providing that acceptance criteria remain unchanged.'' The comment noted that if the inactive ingredient meets compendial standards, the supplier need not be specified in the original application, and if the supplier of that inactive ingredient is later changed, that information does not need to be submitted to FDA if the inactive ingredient also is a compendial standard. As another example, the comment said that Appendix A, Section 2.2 (lines 161–162) of the draft guidance states that: ''Addition of barriers to prevent routine in-process human intervention in a filling or compounding area that is qualified and validated by established procedures.'' The comment said that this is not routinely required to be documented in an annual report.

*FDA Response on Issue Three:* In response to the comments received on the draft guidance, the Agency has clarified the applicable circumstance when information on the new supplier(s) of inactive ingredient should be documented in the annual report. It is clarified that documenting the ''addition of barriers within a conventional fill area'' in an annual report would apply to the manufacturing of sterile products.

The estimates described in this document are based on FDA's data of the number of supplements and annual reports submitted annually to NDAs and ANDAs, as well as the Agency's familiarity with the time needed to prepare supplements and annual reports. The total number of supplements submitted per year is estimated to reduce based on the recommendations in the guidance. Based on the number of CMC manufacturing supplements received for NDAs and ANDAs, FDA estimates that it will receive annually approximately 800 responses under §§ 314.70 and

314.71 for NDAs and approximately 2,075 responses under § 314.97 for ANDAs. The number of annual frequencies per response is estimated to decrease. FDA estimates that approximately the same number of respondents will submit responses under §§ 314.70, 314.71, and 314.97 and each response will take approximately the same amount of time to prepare as in the information collection currently approved under OMB Control Number 0910–0001.

As set forth in the following table, the estimated annual reporting burden for this information collection is 286,000 hours. In the future, it is estimated that the Agency would reduce the currently approved burden (OMB Control Number 0910–0001) for §§ 314.70 and 314.71 for NDAs and § 314.97 for ANDAs by reducing the number of supplements for those postapproval CMC changes that can be documented in annual reports as recommended in the ''Guidance for Industry on CMC Postapproval Manufacturing Changes To Be Documented in Annual Reports.''

FDA estimates the burden on this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN

| Activity | Number of respondents | Annual frequency per response | Total annual responses | Hours per response | Total hours |
|---|---|---|---|---|---|
| Supplements and Annual Reports for NDAs. | 281 (same as currently approved). | 2.85 | 800 | 150 (same as currently approved). | 120,000 |
| Supplements and Annual Reports for ANDAs. | 215 (same as currently approved). | 9.65 | 2,075 | 80 (same as currently approved). | 166,000 |
| Total Hours ..... | | | | | 286,000 |

Dated: October 25, 2013.

**Leslie Kux,**

*Assistant Commissioner for Policy.*

[FR Doc. 2013–25973 Filed 10–31–13; 8:45 am]

**BILLING CODE 4160–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2011–N–0179]**

### Agency Information Collection Activities; Proposed Collection; Comment Request; Prior Notice of Imported Food Under the Public Health Security and Bioterrorism Preparedness and Response Act of 2002

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA or we) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection provisions of our regulations requiring that the Agency receive prior notice before food is imported or offered for import into the United States.

**DATES:** Submit either electronic or written comments on the collection of information by December 31, 2013.

**ADDRESSES:** Submit electronic comments on the collection of information to *http://www.regulations.gov.* Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

**FOR FURTHER INFORMATION CONTACT:** FDA PRA Staff, Office of Operations, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, 301–796–3793, *PRAStaff@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:** Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, we are publishing this notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, we invite comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of our functions, including whether the information will have practical utility; (2) the accuracy of our estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

**Prior Notice of Imported Food Under the Public Health Security and Bioterrorism Preparedness and Response Act of 2002—21 CFR 1.278 to 1.285 (OMB Control Number 0910–0520)—Revision**

The Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (the Bioterrorism Act) added section 801(m) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 381(m)), which requires that we receive prior notice for food, including food for animals, that is imported or offered for import into the United States. Sections 1.278 to 1.282 of our regulations (21 CFR 1.278 to 1.282) set forth the requirements for submitting prior notice; §§ 1.283(d) and 1.285(j) (21 CFR 1.283(d) and 1.285(j)) set forth the procedure for requesting our review after we have refused admission of an article of food under section 801(m)(1) of the FD&C Act or placed an article of food under hold under section 801(l) of

the FD&C Act; and § 1.285(i) sets forth the procedure for post-hold submissions.

Section 304 of the FDA Food Safety Modernization Act (FSMA) (Pub. L. 111–353) amended section 801(m) of the FD&C Act to require a person submitting prior notice of imported food, including food for animals, to report, in addition to other information already required, ''any country to which the article has been refused entry.'' In the **Federal Register** of May 5, 2011 (76 FR 25542), we issued an interim final rule (IFR) entitled ''Information Required in Prior Notice of Imported Food'' (2011 IFR) that implemented section 304 of FSMA and requested public comments. OMB approved the collection of information requirements of the 2011 IFR under OMB control number 0910–0683. On May 30, 2013 (78 FR 32359), we published a final rule that adopts, without change, the regulatory requirements established in the 2011 IFR, specifically that a person submitting prior notice of imported food, including food for animals, must report the name of any country that has refused entry of that product. In this request for extension of OMB approval under the PRA, we are combining the burden hours associated with OMB control number 0910–0683 (collection entitled ''Information Required in Prior Notice of Imported Food'') with the burden hours approved under OMB control number 0910–0520 (collection entitled ''Prior Notice of Imported Food Under the Public Health Security and Bioterrorism Preparedness and Response Act of 2002''). If approved, we will discontinue the information collection in OMB control number 0910–0683, having incorporated the burden into OMB control number 0910–0520.

Advance notice of imported food allows us, with the support of the U.S. Customs and Border Protection (CBP), to target import inspections more effectively and help protect the nation's food supply against terrorist acts and other public health emergencies. By requiring that a prior notice contain additional information that indicates prior refusals by any country and also identifies the country or countries, we may better identify imported food shipments that may pose safety and security risks to U.S. consumers. This additional knowledge can further help us to make better informed decisions in managing the potential risks of imported food shipments into the United States.

Any person with knowledge of the required information may submit prior notice for an article of food. Thus, the respondents to this information collection may include importers, owners, ultimate consignees, shippers, and carriers.

Our regulations require that prior notice of imported food be submitted electronically using CBP's Automated Broker Interface of the Automated Commercial System (ABI/ACS) (§ 1.280(a)(1)) or the FDA Prior Notice System Interface (PNSI) (Form FDA 3540) (§ 1.280(a)(2)). PNSI is an electronic submission system available on the FDA Industry Systems page at *http://www.access.fda.gov/*. Information we collect in the prior notice submission includes: The submitter and transmitter (if different from the submitter); entry type and CBP identifier; the article of food, including complete FDA product code; the manufacturer, for an article of food no longer in its natural state; the grower, if known, for an article of food that is in its natural state; the FDA Country of Production; the name of any country that has refused entry of the article of food; the shipper, except for food imported by international mail; the country from which the article of food is shipped or, if the food is imported by international mail, the anticipated date of mailing and country from which the food is mailed; the anticipated arrival information or, if the food is imported by international mail, the U.S. recipient; the importer, owner, and ultimate consignee, except for food imported by international mail or transshipped through the United States; the carrier and mode of transportation, except for food imported by international mail; and planned shipment information, except for food imported by international mail (§ 1.281).

Much of the information collected for prior notice is identical to the information collected for our importer's entry notice, which has been approved under OMB control number 0910–0046. The information in an importer's entry notice is collected electronically via CBP's ABI/ACS at the same time the respondent files an entry for import with CBP. To avoid double-counting the burden hours already counted in the importer's entry notice information collection, the burden hour analysis in table 1 of this document reflects our estimate of the reduced burden for prior notice submitted through ABI/ACS in column 6, entitled ''Average Burden per Response.''

In addition to submitting a prior notice, a submitter should cancel a prior notice and must resubmit the information to us if information changes after we have confirmed a prior notice submission for review (e.g., if the identity of the manufacturer changes) (§ 1.282). However, changes in the estimated quantity, anticipated arrival information, or planned shipment information do not require resubmission of prior notice after we have confirmed a prior notice submission for review (§ 1.282(a)(1)(i) to (a)(1)(iii)). In the event that we refuse admission to an article of food under section 801(m)(1) of the FD&C Act or we place it under hold under section 801(l), §§ 1.283(d) and 1.285(j) set forth the procedure for requesting our review and the information required in a request for review. In the event that we place an article of food under hold under section 801(l) of the (FD&C Act), § 1.285(i) sets forth the procedure for, and the information to be included in, a post-hold submission.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

| 21 CFR Section | FDA Form No. | Number of respondents | Number of responses per respondent | Total annual responses | Average burden per response | Total hours |
|---|---|---|---|---|---|---|
| **Prior Notice Submissions** | | | | | | |
| *Prior Notice submitted through ABI/ACS:* | | | | | | |
| 1.280, 1.281 | (4) | 15,000 | 608 | 9,120,000 | 0.167 | [2] 1,523,040 |
| *Prior Notice submitted through PNSI:* | | | | | | |
| 1.280, 1.281 | [3] 3540 | 26,667 | 58 | 1,546,686 | 0.384 | 593,927 |
| New Prior Notice Submissions Subtotal | ..... | ..... | ..... | ..... | ..... | 2,116,967 |

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]—Continued

| 21 CFR Section | FDA Form No. | Number of respondents | Number of responses per respondent | Total annual responses | Average burden per response | Total hours |
|---|---|---|---|---|---|---|
| **Prior Notice Cancellations** | | | | | | |
| *Prior Notice cancelled through ABI/ACS:* | | | | | | |
| 1.282 | 3540 | 4,098 | 1 | 4,098 | 0.25 | 1,025 |
| *Prior Notice cancelled through PNSI:* | | | | | | |
| 1.282, 1.283(a)(5) | 3540 | 33,096 | 1 | 33,096 | 0.25 | 8,274 |
| Prior Notice Cancellations Subtotal | | | | | | 9,299 |
| Prior Notice Requests for Review and Post-hold Submissions: | | | | | | |
| 1.283(d), 1.285(j) | (4) | 1 | 1 | 1 | 8 | 8 |
| 1.285(i) | (4) | 1 | 1 | 1 | 1 | 1 |
| Prior Notice Requests for Review and Post-hold Submissions Subtotal | | | | | | 9 |
| Total Hours Annually | | | | | | 2,126,275 |

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] To avoid double-counting, an estimated 396,416 burden hours already accounted for in the Importer's Entry Notice information collection approved under OMB Control No. 0910–0046 are not included in this total.
[3] The term "Form FDA 3540" refers to the electronic submission system known as the Prior Notice System Interface (PNSI), which is available at *http://www.access.fda.gov*.
[4] None.

This estimate is based on our experience and the average number of prior notice submissions, cancellations, and requests for review received in the past 3 years.

As discussed, on May 30, 2013, we published a final rule that adopts, without change, the regulatory requirements established in the 2011 IFR, specifically that a person submitting prior notice of imported food, including food for animals, must report the name of any country that has refused entry of that product. We estimate that it would take on average about one additional minute (0.016 hours) per entry for each respondent to submit prior notice with this additional piece of information. Accordingly, we have increased our estimate of the hours per response for prior notices received through ABI/ACS from 9 minutes, or 0.15 hours, per notice, to 10 minutes, or 0.167 hours, per notice. We have also increased our estimate of the hours per response for prior notices received through PNSI from 22 minutes, or 0.366 hours (rounded to 0.37 hours), per notice, to 23 minutes, or 0.384 hours, per notice.

We received 8,570,504 prior notices through ABI/ACS during 2010; 9,054,187 during 2011; and 9,716,147 during 2012. Based on this experience, we estimate that approximately 15,000 users of ABI/ACS will submit an average of 608 prior notices annually, for a total of 9,120,000 prior notices received annually through ABI/ACS. FDA estimates the reporting burden for a prior notice submitted through ABI/ACS to be 10 minutes, or 0.167 hours, per notice, for a total burden of 1,523,040 hours. This estimate takes into consideration the burden hours already counted in the information collection approval for our importer's entry notice (OMB Control No. 0910–0683), as previously discussed in this document.

We received 1,566,029 prior notices through PNSI during 2010; 1,498,609 during 2011; and 1,524,901 during 2012. Based on this experience, we estimate that approximately 26,667 registered users of PNSI will submit an average of 58 prior notices annually, for a total of 1,546,686 prior notices received annually. We estimate the reporting burden for a prior notice submitted through PNSI to be 23 minutes, or 0.384 hours, per notice, for a total burden of 593,927 hours.

We received 4,488 cancellations of prior notices through ABI/ACS during 2010; 3,993 during 2011; and 3,812 during 2012. Based on this experience, we estimate that approximately 4,098 users of ABI/ACS will submit an average of 1 cancellation annually, for a total of 4,098 cancellations received annually through ABI/ACS. We estimate the reporting burden for a cancellation submitted through ABI/ACS to be 15 minutes, or 0.25 hours, per cancellation, for a total burden of 1,024.5 hours, rounded to 1,025 hours.

We received 33,353 cancellations of prior notices through PNSI during 2010; 33,343 during 2011; and 32,592 during 2012. Based on this experience, we estimate that approximately 33,096 registered users of PNSI will submit an average of 1 cancellation annually, for a total of 33,096 cancellations received annually. We estimate the reporting burden for a cancellation submitted through PNSI to be 15 minutes, or 0.25 hours, per cancellation, for a total burden of 8,274 hours.

We have not received any requests for review under § 1.283(d) or § 1.285(j) in the last 3 years (2010, 2011, and 2012); therefore, we estimate that one or fewer requests for review will be submitted annually. We estimate that it will take a requestor about 8 hours to prepare the factual and legal information necessary to prepare a request for review. Thus, we have estimated a total reporting burden of 8 hours.

We have not received any post-hold submissions under § 1.285(i) in the last 3 years (2010, 2011, and 2012); therefore, we estimate that one or fewer post-hold submissions will be submitted annually. We estimate that it will take about 1 hour to prepare the written notification described in § 1.285(i)(2)(i). Thus, we have estimated a total reporting burden of 1 hour.

Dated: October 25, 2013.

**Leslie Kux,**

*Assistant Commissioner for Policy.*

[FR Doc. 2013–25974 Filed 10–31–13; 8:45 am]

BILLING CODE 4160–01–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 within 30 days of this notice.

**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:* Grant Reviewer Recruitment Form

OMB No. 0915–0295 – Revision

Abstract: HRSA's Division of Independent Review (DIR) is responsible for administering the review of eligible grant applications submitted to HRSA. DIR ensures that the objective review process is independent, efficient, effective, economical, and complies with the applicable statutes, regulations, and policies. Applications are reviewed by subject experts knowledgeable in health and public health disciplines for which support is requested. Review findings are advisory to HRSA programs responsible for making award decisions.

This announcement is a request for approval of the proposed information collection system, the Reviewer Recruitment Module (RRM). HRSA utilizes an existing web-based data collection form and database to gather critical reviewer information. The existing on-line *Grant Reviewer Recruitment Form* uses standardized categories of information in drop down menu format for data such as: degree, specialty, occupation, work setting; and in select instances affiliations with organizations and institutions that serve special populations. Some program regulations require that application objective review panels contain consumers of health services. Other demographic data may be voluntarily provided by a potential reviewer. Defined data elements help HRSA find and select expert grant reviewers for objective review committees. The web-based system also permits reviewers to access and update their information at will and as needed. HRSA maintains a roster of approximately 9,000 qualified individuals who have actively served on HRSA objective review committees. The updated RRM simplifies reviewer application entry using: a user-friendly Graphical User Interface (GUI) with fewer data drop down menu choices, and a search engine that supports key word queries in the actual resume text. The RRM will be 508 compliant and accessible by the general public via a link on the HRSA internet site, or by keying the RRM URL into their browser. The RRM will be accessible using any of the commonly used internet browsers.

*Need and Proposed Use of the Information:* HRSA currently utilizes a web-based data collection *Grant Reviewer Recruitment Form* to collect information from individuals who wish to volunteer as objective review committee participants for the Agency's discretionary, competitive grant, or cooperative agreement funding opportunities. The RRM will replace the original with a user friendly web-based application that is easier and much less burdensome to access, use, and update for potential reviewers. RRM will also provide HRSA with more robust, efficient, and effective search and communication functionality with which to identify and contact qualified potential grant reviewers. The RRM will have an enhanced search and reporting capability to help DIR ensure that HRSA's reviewer pool has the necessary skills and diversity to meet our evolving need for qualified reviewers. If DIR identifies either an expertise or demographic that is underrepresented in the RRM pool, DIR can recruit specifically to address those needs. Expertise is always the primary determinant in selecting potential reviewers for any specific grant review; no reviewer is required to provide demographic information to join the reviewer pool or be selected as a reviewer for any competition.

*Likely Respondents:* All HRSA reviewers must possess the technical skills and abilities to access the internet on a secure desktop, laptop, or touch pad, and either a land line or Voice Over Internet Protocol capability in order to participate in HRSA objective review committees. The reviewer expertise and experience needed varies with each competitive grant program but is consistent with the HRSA mission to address the availability and delivery of quality health care to all Americans. Generally, our reviewers are current or retired professionals with backgrounds in health care, health service delivery, and education and career development in relevant professions and health center facilities' financing, planning, construction, and management. Certain HRSA programs require by legislation the inclusion of consumers of specific health care services in the objective review committee. In these instances consumers of those specified services are qualified per se to be considered for certain objective reviews.

*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 | Responses per respondent | Total responses | Average burden per response (in hours) | Total burden hours |
|---|---|---|---|---|---|
| New reviewer | 5,000 | 1 | 5,000 | .333 | 1,665 |
| Updating reviewer information | 250 | 1 | 250 | .166 | 42 |
| Total | 5,250 | | | | 1,707 |

Dated: October 25, 2013.

**Bahar Niakan,**

*Director, Division of Policy and Information Coordination.*

[FR Doc. 2013–26062 Filed 10–31–13; 8:45 am]

**BILLING CODE 4165–15–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

### Agency Information Collection Activities: Proposed Collection: Public Comment Request

**AGENCY:** Health Resources and Services Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** In compliance with the requirement for opportunity for public comment on proposed data collection projects (Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995), the Health Resources and Services Administration (HRSA) announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

**DATES:** Comments on this Information Collection Request must be received within 60 days of this notice.

**ADDRESSES:** Submit your comments to *paperwork@hrsa.gov* or mail the HRSA Information Collection Clearance Officer, Room 10–29, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call the HRSA Information Collection Clearance Officer at (301) 443–1984.

**SUPPLEMENTARY INFORMATION:** When submitting comments or requesting information, please include the information request collection title for reference.

*Information Collection Request Title:* Nurse Faculty Loan Program—New Program Specific Data Form.

*OMB No.:* 0915–xxxx—NEW.

*Abstract:* This clearance request is for approval of the new Nurse Faculty Loan Program (NFLP) Program Specific Data Form. The form was previously approved under OMB Approval No: 0915–0061 and expired on June 30, 2013. The data form was discontinued under the old approval number.

*Need and Proposed Use of the Information:* The NFLP Program Specific Data Form is included as an electronic attachment with the required application materials. The data provided in the form are essential for the formula-based criteria used to determine the award amount to the applicant schools. Approval of the new NFLP Program Specific Data Form will facilitate our current effort to address the specific program goal of capturing data to efficiently generate the formula-based award. The electronic data collection capability will streamline the application submission process, enable an efficient award determination process, and serve as a data repository to facilitate reporting on the use of funds and analysis of program outcomes.

*Likely Respondents:* NFLP eligible applicants. This includes accredited collegiate schools of nursing and other qualified academic departments offering eligible advanced master's and/or doctoral degree nursing education programs that will prepare students to teach.

*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 Information Collection Request 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 |
|---|---|---|---|---|---|
| NFLP—Program Specific Data Form | 250 | 1 | 250 | 8.0 | 2,000 |
| Total | 250 | 1 | 250 | 8.0 | 2,000 |

HRSA specifically requests comments on (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Dated: October 28, 2013.

**Bahar Niakan,**

*Director, Division of Policy and Information Coordination.*

[FR Doc. 2013–26055 Filed 10–31–13; 8:45 am]

**BILLING CODE 4165–15–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Proposed Collection; 60-Day Comment Request; Multidisciplinary Treatment Planning (MTP) Within the National Cancer Institute (NCI) Community Cancer Centers Program

*Summary:* In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Cancer Institute (NCI), National Institutes of Health (NIH), will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

To Submit Comments and For Further Information: To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact: Irene Prabhu Das, Division of Cancer Control & Population Sciences, National Cancer Institute, 9609 Medical Center Drive, Room 3E–518, Rockville, MD 20850–9704 or call non-toll-free number 240–276–6799 or Email your request, including your address to: *prabhudasi@mail.nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

*Comment Due Date:* Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

*Proposed Collection:* Multidisciplinary Treatment Planning (MTP) within the NCI Community Cancer Centers Program (NCI), 0925—NEW, National Cancer Institute (NCI), National Institutes of Health (NIH).

*Need and Use of Information Collection:* The aim of this data collection is to characterize how NCI Community Cancer Centers Program (NCCCP) hospitals define, structure, and implement multidisciplinary treatment planning (MTP), which initiates a coordinated approach to multidisciplinary care. The web-based, organizational survey will gather data on sites' definitions and terms for multidisciplinary treatment planning, composition of provider teams, meeting process, and patient involvement in the process. Information collected from NCCCP hospitals will add to the knowledge being generated and provide the foundation for research on multidisciplinary care in cancer. A total of 21 hospitals participating in the NCCCP through June 2014 will be requested to complete the survey.

OMB approval is requested for 1 year. There are no costs to respondents other than their time. The total estimated annualized burden hours are 22.

ESTIMATED ANNUALIZED BURDEN HOURS

| Form name | Types of respondents | Number of respondents | Number of responses per respondent | Average burden per response (in hours) | Total annual burden hours |
|---|---|---|---|---|---|
| Survey | Private Sector: Not for Profit NCI Community Cancer Center Program Hospitals. | 21 | 1 | 1 | 21 |
| Telephone Reminder | | 21 | 1 | 2/60 | 1 |

Dated: October 24, 2013.

**Vivian Horovitch-Kelley,**

*NCI Project Clearance Liaison, National Institutes of Health.*

[FR Doc. 2013–26020 Filed 10–31–13; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HOMELAND SECURITY

**[Docket No. DHS–2013–0070]**

### National Infrastructure Advisory Council

**AGENCY:** National Protection and Programs Directorate, DHS.

**ACTION:** Committee Management; Notice of an Open Federal Advisory Committee Meeting.

**SUMMARY:** The National Infrastructure Advisory Council (NIAC) will meet Thursday, November 21, 2013, at the United States Patent and Trademark Office, 2800 South Randolph Street, Room 3C71, Arlington, VA 22206. The meeting will be open to the public.

**DATES:** The NIAC will meet Thursday, November 21, 2013, from 1:30 p.m. to 4:30 p.m. The meeting may close early if the committee has completed its business. For additional information, please consult the NIAC Web site, *www.dhs.gov/NIAC,* or contact the NIAC Secretariat by phone at (703) 235–2888 or by email at *NIAC@hq.dhs.gov.*

**ADDRESSES:** United States Patent and Trademark Office, 2800 South Randolph Street, Room 3C71, Arlington, VA 22206.

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact the person listed under **FOR FURTHER INFORMATION CONTACT** below as soon as possible.

To facilitate public participation, we are inviting public comment on the issues to be considered by the Council as listed in the ''Summary'' section below. Comments must be submitted in writing no later than 12:00 p.m. on November 18, 2013, and must be identified by ''DHS–2013–0070'' and may be submitted by any *one* of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting written comments.

• *Email: NIAC@hq.dhs.gov.* Include the docket number in the subject line of the message.

• *Fax:* (703)603–5098.

• *Mail:* Nancy Wong, National Protection and Programs Directorate, Department of Homeland Security, 245 Murray Lane SW., Mail Stop 0607, Arlington, VA 20598–0607.

*Instructions:* All written submissions received must include the words ''Department of Homeland Security'' and the docket number for this action. Written comments received will be posted without alteration at *www.regulations.gov,* including any personal information provided.

*Docket:* For access to the docket to read background documents or comments received by the NIAC, go to *www.regulations.gov.*

Members of the public will have an opportunity to provide oral comments after the presentation of the report from the Regional Resilience Working Group, and after the report of the Executive Order (EO) 13636 and Presidential Policy Directive (PPD) 21 Implementation (EO–PPD) Working Group. We request that comments be limited to the issues listed in the meeting agenda and previous NIAC studies. All previous NIAC studies can be located at *www.dhs.gov/NIAC.* Public comments may be submitted in writing or presented in person for the Council to consider. Comments received by Nancy Wong after 12:00 p.m. on November 18, 2013, will still be accepted and reviewed by the members, but not necessarily by the time of the meeting. In-person presentations will be limited to three minutes per speaker, with no more than 15 minutes for all speakers after each presentation by each NIAC Working Group. Parties interested in making in-person comments should register on the Public Comment Registration list available at the meeting location no later than 15 minutes prior to the beginning of the meeting.

**FOR FURTHER INFORMATION CONTACT:** Nancy Wong, National Infrastructure Advisory Council Designated Federal Officer, Department of Homeland Security, telephone (703) 235–2888.

**SUPPLEMENTARY INFORMATION:** Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. (Pub. L. 92–463). The NIAC shall provide the President through the Secretary of Homeland Security with advice on the security and resilience of the Nation's critical infrastructure sectors.

The NIAC will meet to discuss issues relevant to the critical infrastructure security and resilience as directed by the President. At this meeting, the committee will receive a presentation from the NIAC Regional Resilience Working Group documenting their final recommendations in their Regional Resilience Study, which includes the role and impact of critical infrastructure on regional resiliency, best regional practices and models, and the contribution of public private partnerships. The committee will also receive a presentation from the EO–PPD Working Group on a report consolidating the Working Group's recommendations related to the implementation of EO 13636 and PPD 21, which include information sharing, national planning and the cyber security framework. Both presentations will be posted no later than one week prior to the meeting on the Council's public Web page on *www.dhs.gov/NIAC.* The Council will review, and deliberate on the findings and recommendations of both Working Groups in this meeting. A Federal official will update the members on the progress of implementation of the committee's recommendations on Intelligence Information Sharing, a report the Council issued in 2012. Federal officials will also provide further clarification to the Council on the scope of the new Transportation Sector Resilience Working Group's study.

**Meeting Agenda**

I. Opening of Meeting
II. Roll Call of Members
III. Opening Remarks and Introductions
IV. Approval of Meeting Minutes
V. Update on Implementation of NIAC's Intelligence Information Sharing Report Recommendations
VI. Regional Resiliency Report Working Group Presentation
VII. Public Comment: Topics Limited to Regional Resilience Report
VIII. Regional Resiliency Report Discussion and Deliberation
IX. EO 13636 and PPD 21 Working Group Report Presentation
X. Public Comment: Topics Limited to EO 13636 and PPD 21 Implementation Report
XI. EO 13636 and PPD 21 Implementation Report Discussion and Deliberation
XII. Discussion and Status of Transportation Resiliency Study Working Group
XIII. Closing Remarks

Dated: October 23, 2013.

**Nancy Wong,**

*Designated Federal Officer for the NIAC.*

[FR Doc. 2013–26025 Filed 10–31–13; 8:45 am]

BILLING CODE 9110–09–P

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Docket ID FEMA–2013–0046; OMB No. 1660–0029]**

### Agency Information Collection Activities: Proposed Collection; Comment Request; Approval and Coordination of Requirements To Use the NETC Extracurricular for Training Activities

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** The Federal Emergency Management Agency, 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 an extension, without change, of a currently approved information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning the collection of information required to request training space and/or housing for emergency preparedness training conducted at the Federal Emergency Management Agency's National Emergency Training Center (NETC).

**DATES:** Comments must be submitted on or before December 31, 2013.

**ADDRESSES:** To avoid duplicate submissions to the docket, please use only one of the following means to submit comments:

(1) *Online.* Submit comments at *www.regulations.gov* under Docket ID FEMA–2013–0046. Follow the instructions for submitting comments.

(2) *Mail.* Submit written comments to Docket Manager, Office of Chief Counsel, DHS/FEMA, 500 C Street SW., Room 835, Washington, DC 20472–3100.

(3) *Facsimile.* Submit comments to (703) 483–2999.

All submissions received must include the agency name and Docket ID. 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 read the Privacy Act notice that is available via the link in the footer of *www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Contact Merril Sollenberger, Events and Visitors Coordinator, FEMA, U.S. Fire Administration, (301) 447–1179 for additional information. You may contact the Records Management Division for copies of the proposed collection of information at facsimile number (202) 646–3347 or email address: *FEMA-Information-Collections-Management@dhs.gov.*

**SUPPLEMENTARY INFORMATION:** The Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 U.S.C. 5121–5207, authorizes the President to establish a program of disaster preparedness that utilizes services of all appropriate agencies and includes training and exercises. Section 611 of the Stafford Act (42 U.S.C. 5196) directs that the Federal Emergency Management Agency (FEMA) may conduct training for the purpose of emergency preparedness. In response, FEMA established the National Emergency Training Center (NETC), located in Emmitsburg, Maryland. The NETC site has facilities and housing available for those participating in emergency preparedness training and a request for use of these areas must be made in advance of the need for such.

## Collection of Information

*Title:* Approval and Coordination of Requirements to Use the NETC Extracurricular for Training Activities.

*Type of Information Collection:* Extension, without change, of a currently approved information collection.

*OMB Number:* 1660–0029.

*FEMA Forms:* FEMA Form 119–17–1, Request for Housing Accommodations; FEMA Form 119–17–2, Request for Use of NETC Facilities.

*Abstract:* FEMA established the National Emergency Training Center (NETC), located in Emmitsburg, Maryland to offer training for the purpose of emergency preparedness. The NETC site has facilities and housing available for those participating in emergency preparedness. When training space and/or housing is required for those attending the training, a request for use of these areas must be made in advance and this collection provides the mechanism for such requests to be made.

*Affected Public:* Not-for-profit institutions; Federal Government; State, Local or Tribal Government; individuals or households; and business or other for-profit.

*Number of Respondents:* 60.

*Number of Responses:* 120.

*Estimated Total Annual Burden Hours:* 12 hours.

ESTIMATED ANNUALIZED BURDEN HOURS AND COSTS

| Type of respondent | Form name/form No. | Number of respondents | Number of responses per respondent | Total number of responses | Avg. burden per response (in hours) | Total annual burden (in hours) | Avg. hourly wage rate | Total annual respondent cost |
|---|---|---|---|---|---|---|---|---|
| Individuals or households; Business or other for-profit; Not-for-profit institutions; Farms; State, local or Tribal Government. | Request for Housing Accommodations/FEMA Form 119–17–1. | 60 | 1 | 60 | *.1 | 6 | $30.81 | $185.00 |
| Individuals or households; Business or other for-profit; Not-for-profit institutions; Farms; State, local or Tribal Government. | Request for Use of NETC Facilities/FEMA Form 119–17–2. | 60 | 1 | 60 | *.1 | 6 | 30.81 | 185.00 |
| Total ..... | ..... | 60 | ..... | 120 | ..... | 12 | ..... | 370.00 |

• **Note:** The "Avg. Hourly Wage Rate" for each respondent includes a 1.4 multiplier to reflect a fully-loaded wage rate.
* (6 minutes).

*Estimated Cost:* The estimated annual cost to respondents for the hour burden is $370.00. There are no annual costs to respondents operations and maintenance costs for technical services. There are no annual start-up or capital costs. The cost to the Federal Government is $10,843.00.

## Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) Evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) 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; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Dated: October 25, 2013.

**Charlene D. Myrthil,**

*Director, Records Management Division, Mission Support Bureau, Federal Emergency Management Agency, Department of Homeland Security.*

[FR Doc. 2013–26016 Filed 10–31–13; 8:45 am]

BILLING CODE 9111–45–P

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Docket ID FEMA–2013–0028]**

### Assistance to Firefighters Grant Program

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice of availability of grant application and application deadline.

**SUMMARY:** This Notice describes the grant application process and the criteria for awarding grants in the fiscal year (FY) 2013 AFG Program and announces the grant application deadline. It explains the differences, if any, between these guidelines and those recommended by representatives of the Nation's fire service leadership during the annual Criteria Development meeting, which was held December 13–14, 2012. The application period for the FY 2013 AFG Program year will be held November 4, 2013, through December 6, 2013, and will be announced on the AFG Web site (*www.fema.gov/firegrants*), *www.grants.gov,* and U.S. Fire Administration Web site (*www.usfa.fema.gov*).

The AFG Program makes grants directly to fire departments, nonaffiliated emergency medical services (EMS) organizations, and state fire training academies for the purpose of enhancing the abilities of first responders to protect the health and safety of the public as well as that of first-responder personnel facing fire and fire-related hazards. It is anticipated that approximately 10,000 to 15,000 applications will be submitted electronically, using the online application submission form and process available at *https://portal.fema.gov.* Before the application period, the ''FY 2013 AFG Funding Opportunity Announcement'' will be published on the AFG Web site (*www.fema.gov/firegrants*). Additional information to assist applicants will be provided on the AFG Web site, including a list of frequently asked questions, a ''Get Ready Guide,'' and a ''Quick Reference Guide,'' and a list of ''Frequently Asked Questions (FAQs).'' In addition, the authorizing statute requires that a minimum of 10 percent of available funds be expended for fire prevention and safety grants to be made directly to local fire departments and to local, regional, State, or national entities recognized for their expertise in the fields of fire prevention and firefighter safety research and development.

**Authority:** 15 U.S.C. 2229.

**DATES:** Grant applications for the Assistance to Firefighters Grants will be accepted electronically at *https://portal.fema.gov,* from November 4, 2013, beginning at 8 a.m. Eastern Time, and will conclude on December 6, 2013, at 5 p.m., Eastern Time.

**ADDRESSES:** Assistance to Firefighters Grants Branch, DHS/FEMA, 800 K Street NW., MS 3620, Washington, DC 20472–3620.

**FOR FURTHER INFORMATION CONTACT:** Catherine Patterson, Chief, Assistance to Firefighters Grant Branch, 1–866–274–0960.

**SUPPLEMENTARY INFORMATION:** The purpose of the Assistance to Firefighters Grant (AFG) Program is to provide grants directly to fire departments, nonaffiliated emergency medical services (EMS) organizations, and State Fire Training Academies (SFTAs) to enhance their ability to protect the health and safety of the public, as well as that of first-responder personnel, with respect to fire and fire-related hazards. The authorizing statute requires that each year DHS publish in the **Federal Register** the guidelines that describe the application process and the criteria for grant awards.

It is anticipated that approximately 10,000 to 15,000 applications for AFG funding will be submitted electronically, using the application submission form and process available at the AFG e-Grant application portal: *https://portal.fema.gov.* Specific information about the submission of grant applications can be found in the ''FY 2013 Assistance to Firefighters Grant (AFG) Funding Opportunity Announcement,'' which is available for download at *www.fema.gov/firegrants* under Docket ID FEMA–2013–0028.

Paper applications will not be accepted due to the inherent delays with processing them and because they lack the applicant ''help'' features that are built into the electronic application.

### Appropriations

Congress appropriated $320,330,025 for the FY 2013 AFG pursuant to the Department of Homeland Security Appropriations Act, 2013, Public Law 113–6. From this amount, $288,828,075 will be made available for AFG awards. Funds appropriated for the FY 2013 AFG will be available for obligation and award until September 30, 2014.

From the approximately 10,000 to 15,000 applications that will be submitted to request assistance, FEMA anticipates that it will be able to award approximately 4,000 grants with the grant funding available.

Congress directed the Department of Homeland Security (DHS) to administer the appropriations with the following requirements:

- Career (fire department): Not less than 25 percent of available grant funds.
- Volunteer (fire department): Not less than 25 percent of available grant funds.
- Combination (fire department) and departments using paid-on-call firefighting personnel—not less than 25 percent of available grant funds.
- Open Competition: Career, volunteer, and combination fire departments and fire departments using paid-on-call firefighting personnel—not less than 10 percent of available grant funds awarded.
- Emergency Medical Services Providers: Fire departments and nonaffiliated EMS organizations; not less than 3.5 percent of available grants funds awarded, with nonaffiliated EMS providers receiving no more than 2 percent of the total available grant funds.
- State Fire Training Academies (SFTAs): No more than 3 percent of available grant funds shall be collectively awarded to state fire training academy applicants, with a maximum of $500,000 to be awarded per applicant.
- Vehicles: Not more than 25 percent of available grant funds may be used for the purchase of vehicles; 10 percent of the total vehicle funds will be dedicated to fund ambulances. The allocation of funding will be distributed as equally as possible among urban, suburban, and rural community applicants. The remaining Vehicle Acquisition funds will be awarded competitively without regard to community classification.
- Micro Grants (MGs): This is a voluntary funding limitation choice made by the applicant for requests submitted for Operations and Safety Grant Component Program; it is not an additional funding opportunity. MGs are awards that have a federal participation (share) that does not exceed $25,000. Only fire departments and nonaffiliated EMS organizations are eligible to choose MGs, and the only eligible MG activities are Training, Equipment, PPE, Wellness and Fitness, and Modification to Facilities. Applicants that select Micro Grants as a funding opportunity *may* receive additional consideration for award. If an applicant selects MGs in their application, they will be limited in the total amount of funding their organization can be awarded; if they are requesting funding in excess of $25,000 federal participation, they should not select Micro Grants.

**Background of the AFG Program**

DHS awards the grants on a competitive basis to the applicants that best address the AFG Program's priorities and provide the most compelling justification. Applications that best address the Program's priorities will be reviewed by a panel composed of fire service personnel.

*Award Criteria*

All applications for grants will be prepared and submitted through the AFG e-Grant application portal (*https://portal.fema.gov*). DHS again will have a separate application period devoted solely to FP&S Grants, which is projected to occur in the fall or winter of 2013.

DHS awards the grants on a competitive basis to the applicants that best address the AFG Program's priorities and provide the most compelling justification. Applications that best address the Program's priorities will be reviewed by a panel composed of fire service personnel. The panels will review the applications and score them using the following criteria areas:

- Proposed project and the project budget
- Cost benefits
- Financial need
- The extent to which the grant would enhance daily operations
- Evaluation by the Peer Reviewers relative to the critical infrastructure the applicant protects
- For joint/regional host applications only, a list of all the participating eligible organizations and ineligible benefitting organizations.
- Critical infrastructure systems or key resources that, if attacked, would result in catastrophic loss of life or catastrophic economic loss. Critical infrastructure includes the following:
  - Public water
  - Power systems
  - Major business centers
  - Chemical facilities
  - Nuclear power plants
  - Major rail and highway bridges
  - Petroleum and/or natural gas transmission pipelines
  - Storage facilities (e.g., chemical storage)
  - Telecommunications facilities
  - Facilities that support large public gatherings, such as sporting events or concerts

Eligible Applicants

The following organizations are eligible to apply for and receive an AFG award of direct financial assistance:

- Fire departments and nonaffiliated EMS organizations operating in any of the 50 states plus the District of Columbia, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of Puerto Rico, or any federally recognized Indian tribe or authorized tribal organization, or an Alaskan native village, Alaska Regional Native Corporation, or the Alaska Village Initiatives. Nonaffiliated EMS organizations are defined by 15 U.S.C. 2229(a)(7).
- Any State Fire Training Academy operating in any of the 50 states plus the District of Columbia, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of Puerto Rico.

Ineligibility

- FEMA considers two or more separate fire departments or nonaffiliated EMS organizations sharing facilities as being one organization. If two or more organizations share facilities, and each organization submits an application in the same program area, FEMA may deem all of those program area applications to be ineligible to avoid any duplication of benefits.
- Fire-based EMS organizations are *not* eligible to apply as nonaffiliated EMS organizations. Fire-based EMS training and equipment must be requested by a fire department under the AFG component program Operations and Safety.

**Statutory Limits to Funding**

Congress has enacted statutory limits to the amount of funding that a grantee may receive from the AFG Program in any single fiscal year (15 U.S.C. 2229(c)(2)) based on the population served. Awards will be limited based on the size of the population protected by the applicant, as indicated below. Notwithstanding the annual limits stated below, the FEMA Administrator may not award a grant in an amount that exceeds one percent of the available grants funds in such fiscal year, except where it is determined that such recipient has an extraordinary need for a grant in an amount that exceeds the one percent aggregate limit.

- In the case of a recipient that serves a jurisdiction with 100,000 people or fewer, the amount of available grant funds awarded to such recipient shall not exceed $1 million in any fiscal year.
- In the case of a recipient that serves a jurisdiction with more than 100,000 people but not more than 500,000 people, the amount of available grant funds awarded to such recipient shall not exceed $2 million in any fiscal year.
- In the case of a recipient that serves a jurisdiction with more than 500,000 but not more than 1 million people, the amount of available grant funds awarded to such recipient shall not exceed $3 million in any fiscal year.
- In the case of a recipient that serves a jurisdiction with more than 1 million people but not more than 2,500,000 people, the amount of available grant funds awarded to such recipient shall not exceed $6 million for any fiscal year.
- In the case of a recipient that serves a jurisdiction with more than 2,500,000 people, the amount of available grant funds awarded to such recipient shall not exceed $9 million in any fiscal year.
- FEMA may not waive the caps on the maximum amount of available grant funds awarded based upon population.

The cumulative total of the federal share of awards in Operations and Safety and Vehicle Acquisition will be considered when assessing award amounts and any limitations thereto. Applicants may request funding up to the statutory limit on each of their applications.

For example, an applicant that serves a population of less than 500,000 people may request up to $2 million on their Operations and Safety Application and up to $2 million on their Vehicle Acquisition Request. However, should both grants be awarded, the applicant would have to choose which award to accept if the cumulative value of both applications exceeds the statutory limits.

Applications for Joint/Regional Projects will not be included in the host organization's funding limitations detailed above. However, Joint/Regional applicants will be subject to their own limitation based on the total population the joint/regional project will serve. For example, a Joint/Regional Project serving a cumulative population greater than 100,000 but less than 500,000 people will be limited to $2 million.

**Cost Sharing and Maintenance of Effort**

Grantees must share in the costs of the projects funded under this grant program as required by 15 U.S.C. 2229(k)(1) and in accordance with 44 CFR 13.24 and 2 CFR 215.23, but they are not required to have the cost-share at the time of application nor at the time of award. However, before a grant is awarded, FEMA will contact potential awardees to determine whether the grantee has the funding in hand or if the grantee has a viable plan to obtain the funding necessary to fulfill the cost-sharing requirement.

In general, an eligible applicant seeking a grant shall agree to make

available non-Federal funds equal to not less than 15 percent of the grant awarded. However, the cost share will vary as follows based on the size of the population served by the organization:

- Applicants serving areas with populations above 20,000 but not more than 1 million shall agree to make available non-Federal funds equal to not less than 10 percent of the total project cost.
- Applicants that serve populations of 20,000 or less must match the Federal grant funds with an amount of non-Federal funds equal to 5 percent of the total project cost.

The cost share of State fire training academies and joint/regional projects will be based on the entire region, not the population of the host organization.

On a case by case basis, the AFG may allow grantees that already own assets (equipment or vehicles) to use the trade-in allowance/credit value of those assets as ''cash'' for the purpose of meeting the cost-share obligation of their AFG award. In-kind cost-share matches are not allowed.

Grantees under this grant program must also agree to a maintenance of effort requirement as required by 15 U.S.C. 2229(k)(3) (referred to as a ''maintenance of expenditure'' requirement in that statute). A grantee shall agree to maintain during the term of the grant the applicant's aggregate expenditures relating to the activities allowable under the Funding Opportunity Announcement at not less than 80 percent (80%) of the average amount of such expenditures in the two (2) fiscal years preceding the fiscal year in which the grant amounts are received.

In cases of demonstrated economic hardship, and on the application of the grantee, the Administrator of FEMA may waive or reduce a grantee's cost share requirement or maintenance of expenditure requirement. The Administrator of FEMA shall establish and publish guidelines for determining what constitutes economic hardship.

Prior to the start of the FY 2013 AFG application period, DHS will conduct applicant workshops and/or Internet webinars to inform potential applicants about the AFG Program. In addition, DHS will provide applicants with online information at the AFG Web site (*www.fema.gov/firegrants*) to help them prepare quality grant applications. The AFG also will staff a Help Desk throughout the application period to assist applicants with navigation through the automated application as well as assistance with any questions they have. Applicants can reach the AFG Help Desk through a toll-free telephone number (1–866–274–0960) or electronic mail (*firegrants@dhs.gov*).

**Application Process**

Organizations may submit one application per application period in each of the three AFG Program areas, e.g., one application for Operations and Safety, one for Vehicle Acquisition, and/or a separate application to be a Joint/Regional Project host. If an organization submits more than one application for any single AFG Program area, e.g., two applications for Operations and Safety, two for Vehicles, etc.; either intentionally or unintentionally, FEMA will deem all applications submitted by that organization for the Program to be ineligible for funding.

Applicants will be advised to access the application electronically at *https://portal.fema.gov.* The application also will be accessible from the U.S. Fire Administration's Web site (*http://www.usfa.fema.gov*) and the grants.gov Web site (*http://www.grants.gov*). New applicants will be required to register and establish a username and password for secure access to their application. Applicants that applied to any previous AFG funding opportunities will be required to use their previously established usernames and passwords.

In completing the application, applicants will be asked to provide relevant information on their organization's characteristics, call volume, and existing capabilities. Applicants will be asked to answer questions about their grant request that reflect the AFG funding priorities, which are described below. In addition, each applicant will have to complete four separate narratives for each project or grant activity requested. These narratives will address statutory competitive factors: Project description and budget, cost benefit, financial need, extent to which the grant will benefit the organization's daily operations, and additional information. The electronic application process will permit the applicant to enter and save the application data. The system does not permit the submission of incomplete applications. Except for the narrative textboxes, the application will use a ''point-and-click'' selection process or require the entry of data (e.g., name and address, call volume numbers, etc.) Applicants will be encouraged to read the ''AFG Funding Opportunity Announcement'' for more details.

*National Fire Protection Association (NFPA) Standards*

Courtesy of the NFPA (and at no cost during the AFG application period), relevant standards that should be referenced in your applications may be viewed at *http://www.nfpa.org/nfpaafg2013.*

**Criteria Development Process**

Each year, DHS convenes a panel of fire service professionals, or subject matter experts (SMEs) to develop the funding priorities and other implementation criteria for AFG. The Criteria Development Panel is comprised of representatives from nine major fire service organizations, who are charged with making recommendations to FEMA regarding the creation of new funding priorities and the modification of existing funding priorities as well as developing criteria for awarding grants. The nine major fire service organizations represented on the panel are:

- Congressional Fire Services Institute (CFSI)
- International Association of Arson Investigators (IAAI)
- International Association of Fire Chiefs (IAFC)
- International Association of Fire Fighters (IAFF)
- International Society of Fire Service Instructors (ISFSI)
- National Association of State Fire Marshals (NASFM)
- National Fire Protection Association (NFPA)
- National Volunteer Fire Council (NVFC)
- North American Fire Training Directors (NAFTD)

The FY 2013 criteria development panel meeting occurred December 13–14, 2012. The content of the ''FY 2013 AFG Funding Opportunity Announcement'' reflects the implementation of the Criteria Development Panel's recommendations with respect to the priorities, direction, and criteria for awards. All of the funding priorities for the FY 2013 AFG are designed to address the following:

- Protecting the public
- First responder safety
- Enhancing national capabilities
- Risk
- Interoperability

*Changes for FY 2013*

Application Prescores. Each application receives an electronic prescore that measures how closely the request aligns with the stated funding priorities. The Criteria Development Panel recommended adjusting some of the weighted scores to more closely reflect changes to national standards, firefighter health and safety issues, and other industry trends. These changes are

minor in nature and do not constitute a material change to the application.

- *FY 2013 AFG Funding Opportunity Announcement*

*Operations and Safety Program*

(1) New Eligible Applicant—State Fire Training Academies: In accordance with the AFG statutory reauthorization at 15 U.S.C. 2229, and in addition to the Criteria Development Group's recommendation, ''State fire training academies'' are now eligible to apply for AFG funding. State fire training academies (SFTA) are eligible to apply only for equipment, personal protective equipment, and vehicles. Furthermore, eligible SFTA applicants must act as the primary grantee; no subgrantee arrangements are permitted under the terms and conditions of any AFG Program. Regardless of a State's mechanism(s) for funding their SFTAs, no AFG award made to a SFTA can be reduced, revised, redirected, or withheld by the SFTA's State or any authorized entity of the State. The Criteria Development Panel recommended that SFTA grantees receive no more than $500,000 per award.

(2) Changes to Application Questions: Some department characteristics and demographic questions were added or modified to capture more pertinent data and allow for more informed reviews of applications. The purpose is to help ensure that funds are awarded to the departments with the greatest need of support.

(3) Availability of Micro Grants (MG): In FY 2013, applicants will have the option of requesting a micro grant, which is an award for which the federal share does not exceed $25,000. Only fire departments and nonaffiliated EMS organizations are eligible to choose MGs, and the only activities that are eligible MGs are Training, Equipment, PPE, Wellness and Fitness, and Modification to Facilities. MGs are not an additional funding opportunity, but MGs applicants may receive additional consideration for an award. The purpose of the MGs is to streamline the scoring and review of the MG applications and to facilitate FEMA's ability to quickly award MG funding.

(4) New Terms for EMS Providers and New Category: FEMA is incorporating into the FY 2013 AFG application the changes made to the titles of EMS providers by the United States Department of Transportation under the ''National EMS Scope of Practice Model.'' These changes are shown below:

- ''First Responder'' is changed to ''Emergency Medical Responder.''
- ''EMT–B'' is changed to EMT.
- ''EMT–I'' is changed to ''EMT Advanced.''
- ''EMT–P'' is changed to ''Paramedic.''
- New category of EMS provider—Community Paramedics (EMT-Ps or paramedics with Primary Care certification).

(5) Permanent or Fixed Trailers Now Eligible: Mobile trailers that are used to train firefighters have long been an eligible activity. The Criteria Development Panel recommended that permanent or fixed trailers used for training also be eligible for funding provided they can be installed without any construction costs.

(6) Face pieces for Firefighter Self-Contained Breathing Apparatus (SCBA): The replacement of firefighter face pieces for SCBAs was made a high priority for funding. This change coincides with the introduction and implementation of the 2013 NFPA standard for Self-Contained Breathing Apparatus.

(7) PPE Eligibility. Several minor changes were recommended to ensure that fire departments and EMS organizations can more easily obtain PPE grants for members who do not have PPE currently, or have PPE that does not fit properly, both of which create safety hazards.

(8) Firefighter personal escape systems: These are now eligible for funding under the PPE activity.

(9) Metro Department Definition: For FY 2013, a metro fire department is defined as one that has a minimum staffing of 350 paid/career members. NOTE: AFG collects this information for statistical purposes only; the status of metro department is not a factor in scoring or funding.

*Vehicle Acquisition Program*

(1) In accordance with the AFG statutory reauthorization, and in addition to the Criteria Development Group's recommendation, ''State fire training academies'' are eligible to apply for AFG vehicle funding.

(2) Of the total AFG funds available for vehicle awards, 10 percent will be allocated to funding ambulances.

(3) New Standard for Ambulances: Ambulances requested must meet NFPA 1917: Standard for Automotive Ambulances, Edition 2013.

(4) Distribution of Awards by Community. To further ensure the equitable distribution of vehicle grants funds between community types, the Criteria Development Panel recommended that funds be awarded evenly among rural, suburban, and urban community types, to the extend this is possible.

*Joint/Regional Grant Program*

(1) The title of the grant program was changed from ''Regional Grant Program'' to ''Joint/Regional Grant Program.''

(2) Both fire department applicants and nonaffiliated EMS applicants are eligible to apply for vehicle funding and all vehicle acquisition activities under the Joint/Regional Grant Program.

*System for Award Management (SAM)*

In 2012, SAM.gov replaced the Central Contractor Registry (CCR). Per 2 CFR 25.200, all grant applicants and awardees are required to register in SAM.gov, which is available free of charge. They must maintain validated information in SAM that is consistent with the data provided in their AFG grant application and in the DUNS database. AFG will not accept any application, process any awards, or consider any payment or amendment requests, or consider any amendment until the applicant or grantee has complied with the requirements to provide a valid DUNS number and an active SAM registration with current information. The banking information, employer identification number (EIN), organization/entity name, address, and DUNS number provided in the application must match the information that provided in SAM.gov.

*Excess Funds*

The amount of excess grant funds (funds remaining after all grant-funded items have been purchased) that grantees may spend without obtaining AFG program preapproval was raised to $10,000.

*Revised Environmental and Historical Review Screening Form*

FEMA's Environmental and Historic Preservation (EHP) Screening Form was revised and made available for download from the AFG application portal. AFG-funded projects that involve the installation of equipment (including but not limited to antennas, sprinklers, alarm systems, generators, vehicle exhaust systems, air improvement systems, permanent mounted signs, or renovations to facilities) are subject to FEMA's EHP screening process.

*National Fire Incident Reporting System (NFIRS)*

Although NFIRS reporting is strongly encouraged, NFIRS reporting is not a requirement to apply for or be awarded a grant within any AFG component program. However, any fire-based organization(s) that receives an AFG

award must be reporting to NFIRS prior to the beginning of their period of performance. Any grantee that stops reporting to NFIRS during their grant's period of performance is subject to having their award(s) modified or withdrawn.

*Changes to Criteria Development Panel Recommendations*

DHS must explain any differences between the published guidelines and the recommendations made by the criteria development panel and publish this information in the **Federal Register** prior to making any grants under the Program. For FY 2013, DHS accepted and is implementing all of the Criteria Development Panel's recommendations.

**Application Review Process and Considerations**

The governing statute requires that each year DHS publish in the **Federal Register** a description of the grant application process and the criteria for grant awards. This information is provided below.

DHS will review and evaluate all AFG applications submitted using the funding priorities and evaluation criteria described in this document, which are based on recommendations from the AFG Criteria Development Panel. FEMA will rank all submitted applications based on how well they match the funding priorities for the type of community served. Answers to the application's activity-specific questions provide information used to determine each application's ranking relative to the stated priorities.

*Preliminary Review Process*

DHS will evaluate all applications received first through an automated preliminary review process to determine which projects best address the AFG Program's announced funding priorities. The automated preliminary review will evaluate and score the applicants' answers to the activity-specific questions in terms of the funding priorities and the evaluation criteria described in this document.

The projects that best meet the AFG Program priorities as determined by the preliminary review will be deemed to be in the ''competitive range'' and will be forwarded for the second level of application review, which is the peer review process. Once the competitive range is established, DHS will review the list of applicants that were not included in the competitive range to determine if any are responsible for protecting DHS-specified critical infrastructure or key resources.

*Peer Review Process*

All projects that are deemed to be in the competitive range after the preliminary review process will be subjected to a second level of review by a technical evaluation panels (TEP) of peer reviewers. The TEPS are made up of individuals from the fire service, including, but not limited to, firefighters, fire marshals, and fire training instructors.

A panel of at least three peer reviewers will evaluate each project in the competitive range using the project narratives, along with answers to the general questions and the activity-specific questions. Panelists will provide a subjective but qualitative judgment on the merits of each request. They will review and score projects based on the following evaluation criteria:

- The proposed project description and budget
- Financial need
- Cost benefits
- The extent to which the grant would enhance daily operations
- How the grant will positively impact the regional ability to protect life and property
- For joint/regional host applications, the list of all the participating eligible and ineligible benefitting organizations.
- Evaluation by the peer reviewers relative to the critical infrastructure the applicant protects within its first-due area of response
- Critical infrastructure includes systems or key resources that, if attacked, would result in catastrophic loss of life or catastrophic economic loss. Examples include the following:
  - Public water
  - Power systems
  - Major business centers
  - Chemical facilities
  - Nuclear power plants
  - Major rail and highway bridges
  - Petroleum and/or natural gas transmission pipelines
  - Storage facilities (such as chemicals)
  - Telecommunications facilities
  - Facilities that support large public gatherings, such as sporting events or concerts
- Additional information provided by the applicant

Each project will be judged on its own merits and not compared to other projects. As part of the cost-benefit review, the panelists will consider all expenses budgeted, including the individual costs of the items requested as well as the extraneous costs, such as warranties or maintenance costs, administrative costs, and/or indirect costs. Panelists may object to costs that are requested but not fully explained in the application.

The panelists will evaluate and score each project individually and then discuss the merits and shortcomings of each application in an effort to reconcile any major discrepancies. However, a consensus among reviewers on the scores is not required. The project's total peer review score will be an average of the individual peer reviewers' scores. The projects receiving the highest scores during the peer review process will be deemed in the fundable range.

The total peer review score will be combined with the score earned from the preliminary review, with each score representing 50 percent of the total project score. Projects will be ranked according to the total project scores with DHS considering the highest-scoring projects for awards.

*Technical Review Process*

Projects receiving the highest scores then will undergo a technical review by a subject matter specialist to assess the technical feasibility of the project and a programmatic review to assess eligibility and other factors.

DHS generally makes funding decisions using rank order resulting from the panel evaluation. However, DHS may deviate from rank order and make funding decisions based on the type of department (career, combination, or volunteer) and/or the size and character of the community the applicant serves (urban, suburban, or rural) to the extent it is required to satisfy statutory provisions.

After the completion of the technical reviews, DHS will select a sufficient number of awardees from this application period to obligate all of the available grant funding. It will evaluate and act on applications within 90 days following the close of the application period. Award announcements will be made on a rolling basis until all available grant funds have been committed. Awards will not be made in any specified order, i.e., awards will not be made by State, program, etc. DHS will notify unsuccessful applicants as soon as it is feasible.

*State Strategy and Communications Technical Review*

Each state will provide a SMS to the AFG Program Office to conduct a Technical Review of Peer reviewed applications from the state's perspective. This state review will focus on requests for CBRNE requested equipment and training. This state review will focus on requests for

communications systems equipment and related training that should conform to the state's Statewide Communication Interoperability Plan (SCIP).

**Funding Priorities**

The funding priorities described in this Notice have been recommended by a panel of representatives from the Nation's fire service leadership and have been accepted by DHS for the purposes of implementing the AFG. These rating criteria provide an understanding of the AFG Program's priorities and the expected cost-effectiveness of any proposed project(s). The activities listed below are in no particular order of priority.

(1) Operations and Safety Funding Priorities

(i) Training Activities

• *Priorities for Fire Departments and Joint/Regional Hosts.* Due to inherent differences among urban, suburban, and rural firefighting needs, AFG has different priorities for Training for fire departments and joint/regional applicants that serve different types of communities, e.g., urban, suburban, or rural. These are described below and in the ''FY 2013 AFG Funding Opportunity Announcement.''

FIRE DEPARTMENT AND JOINT/REGIONAL TRAINING PRIORITIES

| Training | NFPA No. | Urban | Suburban | Rural |
|---|---|---|---|---|
| NFPA 1001 (firefighter I, II) | 1001 | H | H | H |
| NFPA (instructor) | 1041 | H | H | H |
| NFPA 472 (Hazmat operations) | 472 | H | H | H |
| NFPA 1581 (infection control) | 1581 | H | H | H |
| Confined space (awareness) | 1670 | H | H | H |
| Wildland firefighting (basic) | 1143 | H | H | H |
| Wildland firefighting certification (red card) | 1051/1143 | H | H | H |
| Rapid intervention training | 1407 | H | H | H |
| NFPA (officer) | 1021 | H | H | H |
| Emergency medical responder | 1710 | H | H | H |
| Firefighter safety and survival | 1407 | H | H | H |
| Safety officer | 1521 | H | H | H |
| Driver/operator | 1002 | H | H | H |
| Fire prevention | 1/909/913/1035 | H | H | H |
| Fire inspector | 1031 | H | H | H |
| Fire investigator | 1033 | H | H | H |
| Fire educator | 1041 | H | H | H |
| NIMS/ICS | 1561 | H | H | H |
| Firefighter physical ability program | 1583 | H | H | H |
| Emergency scene rehab | 1584 | H | H | H |
| Critical Incident debriefing | 1500/1583 | H | H | H |
| Any training to a National/State or NFPA standards | | H | H | H |
| Compliance with federal/state-mandated program | | H | H | H |
| NFPA (rescue technician) | 1006/1670 | H | H | H |
| Paramedic | | H | H | H |
| Emergency Medical Technician (EMT) | | H | H | H |
| Vehicle rescue | 1670 | H | H | H |
| Other officer | 1021 | H | H | M |
| NFPA (ARFF) | 1003/402/403/408/409/410/412/414/415 | H | H | M |
| Weapons of Mass Destruction (awareness, other/specialized) | 472 | H | H | L |
| Telecommunications dispatcher (if employed by the fire department) | 1061 | H | H | L |
| Mass casualty | | H | H | L |
| Weapons of Mass Destruction (operations) | 472 | H | H | L |
| Weapons of Mass Destruction (technician) | 472 | H | H | L |
| Hazmat (technician) | 472 | H | H | L |
| Training to address a local risk | | M | M | M |
| Maritime Firefighting | | M | M | M |
| Instructor-led training that does not lead to certification | | L | L | L |
| Self-taught courses | | L | L | L |
| Training not elevated to a national or state standard | | L | L | L |
| Training that addresses a specific operational capability | | L | L | L |

*Additional Considerations.* Factors such as whether multiple departments will be trained, instructor-led vs. media-led training, and the number of firefighters to be trained. Large departments with a high number of active firefighters also will receive additional consideration.

• *Priorities for Nonaffiliated EMS Organizations.* Since training is a prerequisite to the effective use of EMS equipment, FEMA has determined that it is more cost-effective to enhance or expand an existing EMS organization by providing training or equipment than it is to create a new service. Therefore, communities attempting to initiate EMS services will receive the lowest competitive rating.

AFG provides training grants to meet the educational and performance requirements of EMS personnel. Training should align with the U.S. National Highway Traffic Safety

Administration (NHTSA), which designs and specifies a National Standard Curriculum for EMT training and the National Registry of Emergency Medical Technicians (NREMT), a private, central certifying entity whose primary purpose is to maintain a national standard (NREMT also provides certification information for paramedics who relocate to another state).

Higher priorities for training are shown below. They are based on the time and cost of upgrading a nonaffiliated EMS organization's response level.

(1) Organizations seeking to elevate the response level from EMT Advanced (EMT–I) to Paramedic (EMT–P)l

(2) Organizations seeking to elevate the response level from EMT (EMT–B) to EMT Advanced (EMT–I); and

(3) Organizations seeking to train a high percentage of the active EMR's will receive additional consideration when applying under the Training Activity.

Lower training priorities due to the time and cost of upgrading an organization's response level are

(1) Organizations seeking to upgrade from Emergency Medical Responder (First Responder) to EMT (EMT–B); and

(2) Organizations seeking to upgrade from EMT (EMT–B) to Paramedic (EMT–P).

(3) The lowest priority for EMS training is to fund Emergency Medical Responder (First Responders).

(4) Organizations seeking training in rescue or Hazmat operations will receive lower consideration than organizations seeking training for medical services.

(ii.) Equipment Acquisition

• *Fire Departments, Joint/Regional Hosts, SFTAs, and Nonaffiliated EMS Organizations.* Grants are available for equipment to enhance the safety and effectiveness of firefighting, rescue, and fire-based and nonaffiliated EMS emergency medical functions. Equipment requested must meet all mandatory requirements, as well as any voluntary consensus standards or national and/or state or DHS-Adopted Standards. The equipment requested should improve the health and safety of firefighters and protect the public.

Priority Equipment Types

(1) Priority 1—Basic, communications, EMS/rescue. The only eligible AFG acquisition activity for interoperable communications equipment is the purchase of P25-compliant equipment. Grantees purchasing P25 equipment must obtain documented evidence from the manufacturer that the equipment has been tested and passed the entire applicable, published, normative P25 Compliance assessment test procedures for performance, conformance, and equipment requested, particularly decontamination and interoperability.

(2) Priority 2—Hazmat, Specialized. Hazmat equipment will only be funded to the current level of an organization's operational capabilities.

(3) Priority 3—Investigations, CBRNE.

*Additional Considerations for Equipment: Fire Departments, Joint/Regional Hosts, and SFTAs.* Additional consideration may be given to equipment requests based on the following factors:

- Equipment that has a direct effect on firefighters' health and safety
- Age of equipment that will be considered for replacement has changed from 10 to 15 years
- Equipment that benefits other jurisdictions
- Equipment that brings the department into compliance with a national recommended standard, (e.g., NFPA) or statutory compliance (e.g., Occupational Safety & Health Administration (OSHA)) will receive the highest additional consideration.

EQUIPMENT REQUEST PRIORITIES—FIRE DEPARTMENTS, JOINT/REGIONAL HOSTS, AND SFTAS

| Priority | Reason for request |
|---|---|
| H | First-time purchase (never owned by applicant) to support existing mission and/or replace obsolete, broken/inoperable equipment. |
| M | Increased capabilities within the department's existing mission or to meet a new risk. |
| L | Requesting items for a new mission to meet an existing risk and/or request additional supplies or reserve equipment. |

• *Funding Priorities for Nonaffiliated EMS Organizations.* Nonaffiliated EMS organizations are eligible for Equipment Activities that are not specific or unique to structural/proximity firefighting, such as but not limited to P25 radios or traffic signal preemption systems. All of the factors in the table below are considerations in prescoring and panelist review.

*Additional Considerations for Equipment—Nonaffiliated EMS.* All of the following are considerations in prescoring and panelist review of equipment requests from nonaffiliated EMS organizations.

EQUIPMENT REQUEST PRIORITIES—NONAFFILIATED EMS ORGANIZATIONS

| Priority | Reason for request |
|---|---|
| H | Departments requesting to upgrade service from Basic Life Support (BLS) to Advanced Life Support (ALS). |
| M | Departments requesting to expand current service. |
| L | Departments requesting new service or replacing used or obsolete equipment. |

PRIORITIES FOR EMS LEVELS OF RESPONSE

| Priority | EMS level |
|---|---|
| H | Advanced Life Support (ALS). |
| H | Basic Life Support (BLS). |
| L | Hazmat operations/technicians. |
| L | Rescue operations/technicians. |

(iii.) Personal Protective Equipment (PPE) Acquisition

AFG Funds are primarily used to acquire OSHA-required and NFPA-compliant PPE for firefighting and EMS personnel of fire departments, joint/regional hosts, nonaffiliated EMS organizations, and State fire training academies. Equipment requested should have the goal of increasing firefighter safety. When requesting to replace old or obsolete equipment, applicants will be asked to provide the age of the equipment being replaced. In order for SCBA/PPE to be considered obsolete, it must be a minimum of two NFPA cycles or 10 years of age or older.

Information on the relevant NFPA standards can be obtained from the organization's Web site at *www.NFPA.org/nfpaafg.2013*. If requesting training for any items in this section, please list it in the Other section under Additional Funding for each item for which training is needed.

• *Funding Priorities for Fire Departments, Joint/Regional Hosts, and SFTAs.* The highest priorities for funding will be requests from departments to buy new PPE for the first time, to replace or update obsolete PPE to the current standard, and to replace torn, tattered, or damaged PPE. (Obsolete is defined as any PPE that is 10 years or older or is outdated by two NFPA cycles.) The medium priority for funding will be requests to replace contaminated PPE or to address a new risk. A low priority for funding will be requests to replace new or used PPE, replace worn but usable PPE that is not compliant to the current edition of the NFPA standard, to meet a new mission, or to increase current inventory. The table below shows the priorities for PPE requests that will be considered during prescoring and peer panelist reviews.

PRIORITIES FOR PPE REQUESTS FROM FIRE DEPARTMENTS, JOINT/REGIONAL HOSTS, AND SFTA

| Priority | Reason for PPE request |
|---|---|
| H | • Departments requesting new PPE for the first time.<br>• Replacing torn, damaged, or obsolete PPE to the current standard.<br>• Personal Safety/Rescue Bailout Systems.<br>• Members without gear (Member can't be outfitted from current inventory). |
| M | • Requesting PPE for a new risk. |
| L | • Worn but usable PPE that is not compliant to the current edition of the NFPA standard, and/or to handle a new mission or increase current inventory.<br>• Used PPE.<br>• Replacing New PPE.<br>• New Mission.<br>• Increase Supplies. |

• *Funding Priorities for Nonaffiliated EMS Organizations.* Nonaffiliated EMS organizations are eligible for PPE activities that are not specific or unique to structural/proximity firefighting, such, as but not limited to, ''NFPA1999: Standard on Protective Clothing for Emergency Medical Operations,'' or ''NFPA 1981: Standard on Open-Circuit Self-Contained Breathing Apparatus (SCBA) for Emergency Services.''

PRIORITIES FOR PPE REQUESTS FROM NONAFFILIATED EMS ORGANIZATIONS

[*Training on Use of Requested Equipment: Applicants must indicate grant-purchased equipment will be operated by sufficiently trained staff. Failure to meet this requirement will result in ineligibility for funding*]

| Priority | Reason for PPE request |
|---|---|
| H | • Departments requesting new PPE for the first time.<br>• Replacing torn, damaged, or obsolete PPE to the current standard.<br>• Personal Safety/Rescue Bailout Systems.<br>• Members without gear (Member can't be outfitted from current inventory). |
| M | • Requesting PPE for a new risk. |
| L | • Worn but usable PPE that is not compliant to the current edition of the NFPA standard and/or to handle a new mission, or increase current inventory.<br>• Replace new PPE.<br>• New mission.<br>• Increase supply. |

• *Self-contained Breathing Apparatus (SCBA) Priorities.* Awards for all SCBAs will be based on number of seated riding positions in the department's or organization's vehicle fleet and the age of existing SCBAs, limited to one spare cylinder (unless justified otherwise in the Request Details narrative for the PPE activity). New SCBAs must have automatic-on or integrated Personal Alert Safety System (PASS) devices and be CBRNE-compliant to the current edition of the NFPA 1981 standard. Applicants will be required to provide the age of the PPE being replaced. All requests must be justified in the Request Details narrative for the PPE activity.

SELF-CONTAINED BREATHING APPARATUS (SCBA) PRIORITIES FOR REQUESTS FROM FIRE DEPARTMENTS, JOINT/REGIONAL HOSTS, SFTAS, AND NONAFFILIATED EMS ORGANIZATIONS

| Priority | Items requested |
|---|---|
| H | Replacing SCBA compliant with NFPA 1981, pre-2002 Edition. |
| M | Replacing SCBA compliant with NFPA 1981, 2007 Edition (must be justified in the PPE Narrative). |

SELF-CONTAINED BREATHING APPARATUS (SCBA) PRIORITIES FOR REQUESTS FROM FIRE DEPARTMENTS, JOINT/REGIONAL HOSTS, SFTAS, AND NONAFFILIATED EMS ORGANIZATIONS—Continued

| Priority | Items requested |
|---|---|
| L | Replacing SCBA compliant with NFPA 1981, 2012 Edition (must be justified in the PPE Narrative). |

Additional Considerations for PPE Requests: Fire Departments, Joint/Regional Hosts/SFTAs

- Obsolete is defined as any SCBA/PPE that is 10 years or older or two NFPA cycles.
- Applicants with the oldest PPE and/or trying to bring the department into 100 percent NFPA compliance, or the number of firefighters who will have compliant gear.

Additional Considerations for PPE Requests: Nonaffiliated EMS Organizations

- Percent of firefighters/EMS personnel served
- Age of equipment
- Obsolete equipment—defined as any SCBA/PPE that is 10 years or older, or two NFPA cycles.

(iv.) Wellness and Fitness Activities

Only fire departments and nonaffiliated EMS organizations are eligible to apply for grants for Wellness and Fitness Activities. Wellness and Fitness Activities are intended to strengthen first responders so their mental, physical, and emotional capabilities are resilient to withstand the demands of emergency services response. To be eligible for FY 2013 AFG funding in this activity, fire departments and nonaffiliated EMS organizations must offer, or plan to offer, all four of the following:

(1) Periodic health screenings
(2) Entry physical examinations
(3) Immunizations
(4) Behavioral health programs

- *Funding Priorities.* Applicants must have all four Priority 1 Activities already in place (or request funding for any missing Priority 1 Activities), or they will be unable to request funding for any Priority 2 Activities.

Priority 1: Below are the four activities required to offer a complete Wellness and Fitness Program:

(1) Initial medical exams
(2) Job-related immunization
(3) Annual medical and fitness evaluation
(4) Behavioral health

Priority 2: You may only apply for Priority 2 items if you offer or are requesting a combination of the four activities required under Priority 1. Departments that have some of the Priority 1 programs in place must apply for funds to implement the missing Priority 1 programs before applying for funds for any additional program or equipment. In addition, funded medical exams must meet current NFPA 1582, as required by DHS Standards.

- Simultaneous requests for Priority 1 and Priority 2 activities will receive a lower funding consideration than requests that complete the bundle of the four (4) Priority 1 Activities.
- Candidate physical ability evaluation
- Formal fitness and injury prevention program/equipment
- Injury/illness rehabilitation
- IAFF or IAFC peer fitness trainer program(s)

(v.) Modifications to Facilities

Only fire departments and nonaffiliated EMS organizations are eligible to apply for Modifications to Facilities grants. FY 2013 AFG Grants may be used to modify and retrofit existing fire stations and other facilities or structures built before 2003. Eligible projects under this activity must have a direct effect on the health and safety of firefighters. New fire station construction is not eligible for funding. To be eligible, the modification must not change the structure footprint or profile. If requesting multiple items in this activity, total funding for all project and activities cannot exceed $100,000 per fire station.

FEMA is legally required to consider the potential impacts of all grant-funded projects on environmental resources and historic properties through an environmental and historic preservation (EHP) review. Any project with the potential to impact natural resources or historic properties cannot be initiated until FEMA has completed the required FEMA EHP review. Grantees that implement projects before receiving EHP approval from FEMA risk having grant funds deobligated. Modification projects that must undergo EHP reviews include but are not limited to the installation of equipment; ground-disturbing activities, such as building a concrete pad for a station generator; communications tower installations, or the modification or renovation of existing buildings and structures. Any project not specifically excluded from a FEMA EHP review must undergo such a review, per the Grant Programs Directorate's (GPD) Programmatic Environmental Assessment (PEA). For more information, see GPD Information Bulletin No. 345. Grantees must comply with all applicable EHP laws, regulations, and Executive Orders (EOs) to draw down their FY 2013 AFG funds.

- *Funding Priorities.* Highest priority for funding will be requests to install modifications such as sole/at source capture exhaust systems (SSCES), sprinkler systems, or smoke/fire alarm notification systems in stations, including maritime and air operations facilities, that are occupied 24/7 and offer sleeping quarters. An SSCES is a system where exhaust gases from a vehicle are captured via a conduit that attaches to/over the end of the vehicle's exhaust system at the tailpipe. The captured exhaust gases are expelled through the attached conduit via mechanical/pneumatic means to the exterior of the building. Medium priority will be given to requests for air quality systems and/or emergency generators from departments that may or may not offer sleeping quarters. Low priority will be given to requests to modify facilities that are not occupied 24/7 and do not offer sleeping quarters, and for training facilities.

All of the following information is considered during prescoring and panelist review:

MODIFICATIONS TO FACILITIES PRIORITIES

| Priority | Requested items |
|---|---|
| H | Sole/at source capture exhaust systems (SSCES), sprinkler systems, or smoke/fire alarm notification systems requested by stations with sleeping quarters, including maritime/air operations facilities, that are occupied 24/7. |
| M | Air quality systems and/or emergency generators, requested by organizations with or without sleeping quarters. |

MODIFICATIONS TO FACILITIES PRIORITIES—Continued

| Priority | Requested items |
|---|---|
| L | Items from the High or Medium priority list (above) requested by organizations whose facilities are not occupied 24/7 and do not have sleeping quarters; also training facilities and air quality systems (AQS). |

• *Priorities by Level of Facility Occupancy:*

H Full-time (24/7)
M Daily (part-time or selected coverage; not on a regular basis)
L Occasionally (no schedule coverage; volunteers respond to the station.)

*Additional Considerations* will be given for the age of the building, with older facilities receiving higher priority. If requesting multiple items in this activity, funding cannot exceed a maximum of $100,000 per station.

*(2) Joint/Regional Host Organizations.* Only fire departments and nonaffiliated EMS organizations are eligible to apply for Joint/Regional Host grants. The ''host'' organization submits the Joint/Regional application in its own name and on behalf of itself and at least one (1) other identified and AFG eligible participating entity. To apply for a regional project, the host organization must agree, if awarded, to be responsible for all aspects of the grant. This includes, but is not limited to, accountability for the assets and all reporting requirements in the regional application; the host will be required to describe the characteristics of the entire region that will be affected by the project(s). The host organization never functions as a pass-through organization and the participating partners are never subgrantees; the host only distributes grant-funded assets or contracted services and never distributes grant funds to participating organizations.

Joint/Regional Host applicants have restricted acquisition activities under Operations and Safety—they may only apply for Training, Equipment, and PPE. Beginning in FY2013, Joint/Regional applicants also may request all activities in the Vehicle Acquisition Program.

A Joint/Regional Applicant (the host organization) is not prevented from also submitting an application on behalf of their own organization for any of the AFG component programs (Vehicle Acquisition and/or Operations and Safety); however, duplicative requests are not allowed.

(3) Vehicles Acquisition Program

Not more than 25 percent of available grant funds may be used for the purchase of vehicles. Of the 25 percent set aside for vehicle funding, 10 percent will be dedicated to fund ambulances. The allocation of vehicle funding will be distributed as equally as possible among urban, suburban, and rural community applicants. The remaining Vehicle Acquisition funds will be awarded competitively without regard to community classification.

In FY 2013, fire departments, joint/regional hosts, nonaffiliated EMS organizations, and SFTAs may apply for more than one vehicle. Requests cannot exceed the financial cap based on population listed in the application. If a department submits multiple types of applications, and more than one of those requests are approved, the department will be held to the same financial cap based on the population listed in the application.

(i) Compliance With Standards

• New vehicles purchased with AFG Funds must be compliant with NFPA 1901 (''Standard for Automotive Fire Apparatus) or NFPA 1906 (Standard for Wildland Fire Apparatus'') for the year ordered/manufactured.

• Used fire apparatus must be compliant with NFPA 1901 or 1906 standards for the year the vehicle was manufactured.

• Ambulances must meet ''NFPA 1917: Standard for Automotive Ambulances, Edition 2013.''

• Applicants must certify that unsafe vehicles will be permanently removed from service if awarded a grant. Acceptable uses of unsafe vehicles include farm, nursery, scrap metal, salvage, construction, etc.

• Refurbished vehicles must meet current NFPA 1912 standards.

• Funds may be used to refurbish a vehicle the department currently owns, but it will be eligible only if the vehicle was designed originally for firefighting. Refurbished vehicles must meet current NFPA 1912 standards.

When requesting more than one vehicle, the applicant will be asked to fill out a separate line item and answer all the questions including a separate Narrative for each vehicle. For example, if requesting to replace three ambulances, the applicant must fill out the age and vehicle identification number (VIN) of each vehicle being replaced. The same VIN cannot be used in each line item.

Applicants may request funding for a driver training program in the Vehicle Acquisition section but must add the request in the Additional Funding area in the Request Details section of the application. Driver training program(s) must be in place prior to the delivery of the vehicle. Applicants requesting vehicles that do not have drivers/operators trained to NFPA 1002 or equivalent, and are not planning to have a training program in place by the time the vehicle is delivered, will not receive a vehicle award.

(ii) Vehicle Funding Priorities

Inherent differences exist between urban, suburban, and rural firefighting conventions. For this reason, DHS has developed different priorities in Vehicle Acquisition for departments that serve different types of communities. The U.S. Census Bureau's urban—rural classifications are fundamentally a delineation of geographical areas. The FY2013 demographics for determining urban, suburban, and rural are shown in the table below.

| Factors | Urban | Suburban | Rural |
|---|---|---|---|
| Population Size | >3,000/sq. mi. or 50,000+ population. | 1,000–2,999/sq. mi. or 25,000–50,000 population. | 0–999/sq. mi. or <25,000 population. |
| Water Supply | 75–100% hydrants (municipal water). | 50–74% hydrants | <50% hydrant. |
| Land Use | <25% for agriculture (based on zoning) industrial and commercial combined >50%. | 25–49% used for agriculture (based on zoning) industrial and commercial combined >25–49%. | 50% used for agriculture (based on zoning) industrial and commercial combined <25%. |

| Factors | Urban | Suburban | Rural |
|---|---|---|---|
| Number of Stations per square mile. | <3 sq. mi. per station | 3–9 sq. mi. per station | >10 sq. mi. per station. |
| Number of Occupancies | >100 | 11–100 | 0–10. |

• *Fire Department, Joint/Regional, and SFTA Priorities.* Fire departments, joint/regional applicants, and SFTAs are eligible to request funding for the Vehicle Acquisition activities and funding priorities shown below, but they are not limited to these Vehicle activities. The funding priorities for firefighting vehicles—High (H), Medium (M), or Low (L)—are organized by community type. Within each separate funding priority, the vehicles listed have equal value. The chart below delineates the priorities for firefighting vehicles for each type of community.

VEHICLE ACQUISITION PRIORITIES—FIRE DEPARTMENTS, JOINT/REGIONAL HOSTS, AND SFTAS

| Priority | Urban communities | Suburban communities | Rural communities |
|---|---|---|---|
| H | • Pumper<br>• Ambulance<br>• Aerial<br>• Rescue | • Pumper<br>• Ambulance<br>• Aerial<br>• Tanker-Tender<br>• Rescue | • Pumper.<br>• Ambulance.<br>• Brush-Attack.<br>• Tanker-Tender.<br>• Aerial. |
| M | • Command<br>• Hazmat<br>• Light/Air Unit<br>• Rehab | • Hazmat Command<br>• Light/Air Unit<br>• Brush-Attack<br>• Rehab Unit | • Command.<br>• Hazmat.<br>• Rescue.<br>• Light/Air Unit. |
| L | • Aircraft Rescue and Firefighting Vehicle (ARFF).<br>• Brush-Attack<br>• Foam Truck<br>• Fire Boat<br>• Tanker-Tender<br>• Highway Safety Unit. | • ARFF<br>• Foam Truck<br>• Highway Safety Unit<br>• Fire Boat | • Foam Truck.<br>• Highway Safety Unit.<br>• ARFF.<br>• Rehab.<br>• Fire Boat. |

• *Nonaffiliated EMS Organizations Vehicle Priorities.* They are eligible for Vehicle Acquisition Activities that are not specific or unique to structural/proximity firefighting.

EMS VEHICLE ACQUISITION PROGRAM PRIORITIES

| Priority | Vehicle type |
|---|---|
| H | Ambulances or transport units to support EMS functions (capped at $150,000). |
| M | Non-transport (vehicles that do not transport a patient). |

(iii) Additional Considerations

- Automatic aid agreements, mutual aid agreements, or both
- Replacement of vehicles with open cab/jump seat configurations
- Age of the vehicle being replaced; older equipment receive higher consideration
- Age of the newest vehicle in the department's fleet that is similar to the vehicle to be replaced
- Average age of the fleet; older equipment within the same class
- Converted vehicles not designed or intended for use in the fire service

(4) Administrative Costs

Panelists will assess the administrative costs requested in each application and determine whether the request is reasonable and in the best interest of the Program.

Dated: October 24, 2013.

**W. Craig Fugate,**

*Administrator, Federal Emergency Management Agency.*

[FR Doc. 2013–26024 Filed 10–31–13; 8:45 am]

BILLING CODE 9111–78–P

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Docket ID FEMA–2013–0044]**

### Recovery Policy, RP9525.2, Donated Resources

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** The Federal Emergency Management Agency (FEMA) is accepting comments on Recovery Policy RP9525.2, *Donated Resources.*

**DATES:** Comments must be received by December 2, 2013.

**ADDRESSES:** Comments must be identified by docket ID FEMA–2013–0044 and may be submitted by one of the following methods:

*Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. Please note that this proposed policy is not a rulemaking and the Federal Rulemaking Portal is being utilized only as a mechanism for receiving comments.

*Mail:* Regulatory Affairs Division, Office of Chief Counsel, Federal Emergency Management Agency, 8NE, 500 C Street SW., Washington, DC 20472–3100.

**FOR FURTHER INFORMATION CONTACT:** Dinusha Weerakkody, Federal Emergency Management Agency, 500 C

Street SW., Washington, DC 20472, *Dinusha.weerakkody@dhs.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Public Participation

*Instructions:* All submissions received must include the agency name and docket ID. 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 read the Privacy Act notice, which can be viewed by clicking on the ''Privacy Notice'' link in the footer of *www.regulations.gov.*

You may submit your comments and material by the methods specified in the **ADDRESSES** section above. Please submit your comments and any supporting material by only one means to avoid the receipt and review of duplicate submissions.

*Docket:* The proposed policy is available in docket ID FEMA–2013–0044. For access to the docket to read background documents or comments received, go to the Federal eRulemaking Portal at *http://www.regulations.gov* and search for the docket ID. Submitted comments may also be inspected at FEMA, Office of Chief Counsel, 8NE, 500 C Street SW., Washington, DC 20472.

## II. Background

This is an existing policy that is scheduled for review to ensure that Recovery Directorate policies are consistent with current laws and regulations. The proposed policy establishes the criteria by which applicants will be credited for volunteer labor, donated equipment and donated materials used in the performance of eligible emergency work (Categories A and B). A proposed change to the policy will allow the value of mass care and sheltering activities provided by a voluntary agency to be applied to the non-Federal share as a donated resource even when those activities are part of the organization's mission. The proposed policy does not have the force or effect of law.

FEMA seeks comment on the proposed policy, which is available online at *http://www.regulations.gov* in docket ID FEMA–2013–0044. Based on the comments received, FEMA may make appropriate revisions to the proposed policy. Although FEMA will consider any comments received in the drafting of the final policy, FEMA will not provide a response to comments. When or if FEMA issues a final policy, FEMA will publish a notice of availability in the **Federal Register** and make the final policy available at *http://www.regulations.gov*. The final policy will not have the force or effect of law.

**Authority:** 42 U.S.C. 5121–5207.

**David J. Kaufman,**

*Director, Office of Policy and Program Analysis, Federal Emergency Management Agency.*

[FR Doc. 2013–26018 Filed 10–31–13; 8:45 am]

**BILLING CODE 9111–23–P**

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# DEPARTMENT OF HOMELAND SECURITY

## Federal Emergency Management Agency

**[Docket ID FEMA–2013–0039]**

## Technical Mapping Advisory Council

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Committee Management; Request for Applicants for Appointment to the Federal Emergency Management Agency's Technical Mapping Advisory Council.

**SUMMARY:** The Federal Emergency Management Agency (FEMA) is requesting qualified individuals interested in serving on the Technical Mapping Advisory Council (TMAC) to apply for appointment. As provided for in the Biggert-Waters Flood Insurance Reform Act of 2012, the TMAC makes recommendations to the FEMA Administrator on how to improve, in a cost-effective manner, the accuracy, general quality, ease of use, and distribution and dissemination of flood insurance rate maps (FIRMs) and risk data; and performance metrics and milestones required to effectively and efficiently map flood risk areas in the United States.

**DATES:** Applications will be accepted until December 2, 2013.

**ADDRESSES:** Applications for membership should be submitted by one of the following methods:

- *Email: FEMA-TMAC@fema.dhs.gov.*
- *Mail:* FEMA, Federal Insurance and Mitigation Administration, Risk Analysis Division, Attn: Michael Godesky or Mark Crowell, 1800 South Bell Street, Arlington, VA 20598–3035.

**FOR FURTHER INFORMATION CONTACT:** Michael Godesky, 1800 South Bell Street, Arlington, Virginia 20598–3035, email: *FEMA-TMAC@fema.dhs.gov,* phone: 202.646.2752.

**SUPPLEMENTARY INFORMATION:** The TMAC is an advisory committee that was established by the Biggert-Waters Flood Insurance Reform Act of 2012, 42 U.S.C. 4101a, and in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. (Pub. L. 92–463). The TMAC is required to recommend to the Administrator: (1) Mapping standards and guidelines for FIRMs and data accuracy, data quality, data currency, and data eligibility; (2) how to maintain, on an ongoing basis, FIRMs and flood insurance identification; and (3) procedures for delegating mapping activities to State and local mapping partners. The TMAC is also required to recommend to the Administrator, and other Federal agencies participating on the Council, methods for improving interagency and intergovernmental coordination on flood mapping and flood risk determination, and a funding strategy to leverage and coordinate budgets and expenditures across Federal agencies. In consultation with scientists and technical experts, other Federal agencies, and local communities, the TMAC will develop recommendations on how to ensure that FIRMs incorporate the best available climate science to assess flood risks and ensure that FEMA uses the best available methodology to consider the impact of the rise in sea level and future development on flood risk. Members of the TMAC will be appointed based on their demonstrated knowledge and competence regarding surveying, cartography, remote sensing, geographic information systems, or the technical aspects of preparing and using FIRMs. To the maximum extent practicable, FEMA will ensure that membership of the TMAC has a balance of Federal, State, local, Tribal, and private members, and includes geographic diversity, including representation from areas with coastline on the Gulf of Mexico and other States containing areas identified by the Administrator as at high risk for flooding or as areas having special flood hazards.

FEMA is requesting qualified individuals who are interested in serving on the TMAC to apply for appointment. Certain members of the TMAC, as described below, will be appointed and serve as Special Government Employees (SGE) as defined in section 202(a) of title 18 United States Code. Candidates selected for appointment as SGEs are required to complete a Confidential Financial Disclosure Form (Office of Government Ethics (OGE) Form 450). This form can be obtained by visiting the Web site of

the Office of Government Ethics (*http://www.oge.gov*). Please do not submit this form with your application. Qualified applicants will be considered for one or more of the following membership categories:

a. One member of a recognized professional surveying association or organization (SGE appointment);

b. One member of a recognized professional mapping association or organization (SGE appointment);

c. One member of a recognized professional engineering association or organization (SGE appointment);

d. One member of a recognized professional association or organization representing flood hazard determination firms (SGE appointment);

e. One representative of the United States Geological Survey;

f. One representative of a recognized professional association or organization representing State geographic information;

g. One representative of State national flood insurance coordination offices;

h. One representative of the Corps of Engineers;

i. One member of a recognized regional flood and storm water management organization (SGE appointment);

j. Two representatives of different State government agencies that have entered into cooperating technical partnerships with the Administrator and have demonstrated the capability to produce FIRMs;

k. Two representatives of different local government agencies that have entered into cooperating technical partnerships with the Administrator and have demonstrated the capability to produce FIRMs;

l. One member of a recognized floodplain management association or organization (SGE appointment);

m. One member of a recognized risk management association or organization (SGE appointment); and

n. One State mitigation officer (SGE appointment).

Members of the TMAC will serve terms of office of two years. However, up to half (eight) of those initially appointed to the TMAC may serve one-year terms to allow for staggered turnover. There is no application form. However, applications must include the following information: The applicant's full name, home and business phone numbers, preferred email address, home and business mailing addresses, current position title & organization, resume or curriculum vitae, and the membership category of interest (e.g., State mitigation officer). Contact information is provided in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

The TMAC will meet not less than twice a year. Members may be reimbursed for travel and per diem, and all travel for TMAC business must be approved in advance by the Designated Federal Officer. The Department of Homeland Security (DHS) does not discriminate in employment on the basis of race, color, religion, sex, national origin, political affiliation, sexual orientation, gender identity, marital status, disability and genetic information, age, membership in an employee organization, or other non-merit factor. DHS strives to achieve a widely diverse candidate pool for all of its recruitment actions. Registered lobbyists and current FEMA employees, Disaster Assistance Employees, reservists, contractors, and potential contractors will not be considered for membership.

Dated: October 23, 2013.

**W. Craig Fugate,**

*Administrator, Federal Emergency Management Agency.*

[FR Doc. 2013–26019 Filed 10–31–13; 8:45 am]

**BILLING CODE 9110–12–P**

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## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Docket ID FEMA–2012–0025]**

### Trees and Plantings Associated With Eligible Facilities, RP9524.5

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This document provides notice of the availability of the final policy *Trees and Plantings Associated with Eligible Facilities.* The Federal Emergency Management Agency (FEMA) published a notice of availability and request for comment for the proposed policy on August 6, 2012, at 77 FR 46767.

**DATES:** This policy is effective September 4, 2013.

**ADDRESSES:** This final policy is available online at *http://www.regulations.gov* and on FEMA's Web site at *http://www.fema.gov.* The proposed and final policy, all related **Federal Register** Notices, and all public comments received during the comment period are available at *http://www.regulations.gov* under docket ID FEMA–2012–0025. You may also view a hard copy of the final policy at the Office of Chief Counsel, Federal Emergency Management Agency, 8NE, 500 C Street SW., Washington, DC 20472.

**FOR FURTHER INFORMATION CONTACT:** William Roche, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, 202–646–3834.

**SUPPLEMENTARY INFORMATION:** The purpose of this policy is to provide guidance on eligible and ineligible work related to trees, shrubs, and other plantings, including limited eligibility for replacement of grass and sod associated with facilities eligible for repair and restoration. This policy applies to any measure taken with respect to trees, shrubs, and other plantings, including but not limited to replacement, non-emergency removal for the purposes of replacement, and remedial actions taken to abate disaster damage. It does not affect eligible debris removal and emergency protective measures that may be taken under Sections 403 and 407 of the Stafford Act, as amended.

FEMA received one comment on the proposed policy; it did not make any changes to the final policy.

This final policy does not have the force or effect of law.

**Authority:** 42 U.S.C. 5121–5207.

**David J. Kaufman,**

*Director, Office of Policy and Program Analysis, Federal Emergency Management Agency.*

[FR Doc. 2013–26017 Filed 10–31–13; 8:45 am]

**BILLING CODE 9111–23–P**

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## DEPARTMENT OF HOMELAND SECURITY

### U.S. Citizenship and Immigration Services

**[CIS No. 2538–13; DHS Docket No. USCIS–2013–0006]**

**RIN 1615–ZB24**

### Extension of the Designation of Somalia for Temporary Protected Status

**AGENCY:** U.S. Citizenship and Immigration Services, Department of Homeland Security.

**ACTION:** Notice.

**SUMMARY:** Through this Notice, the Department of Homeland Security (DHS) announces that the Secretary of Homeland Security (Secretary) is extending the designation of Somalia for Temporary Protected Status (TPS) for 18 months from March 18, 2014 through September 17, 2015.

The extension allows currently eligible TPS beneficiaries to retain TPS

through September 17, 2015, so long as they otherwise continue to meet the eligibility requirements for TPS. The Secretary has determined that an extension is warranted because the conditions in Somalia that prompted the TPS designation continue to be met. There continues to be a substantial, but temporary, disruption of living conditions in Somalia based upon ongoing armed conflict and extraordinary and temporary conditions in that country that prevent Somalis who have TPS from safely returning.

Through this Notice, DHS also sets forth procedures necessary for nationals of Somalia (or aliens having no nationality who last habitually resided in Somalia) to re-register for TPS and to apply for renewal of their Employment Authorization Documents (EADs) with U.S. Citizenship and Immigration Services (USCIS). Re-registration is limited to persons who have previously registered for TPS under the designation of Somalia and whose applications have been granted. Certain nationals of Somalia (or aliens having no nationality who last habitually resided in Somalia) who have not previously applied for TPS may be eligible to apply under the late initial registration provisions, if they meet: (1) At least one of the late initial filing criteria and (2) all TPS eligibility criteria (including continuous residence in the United States since May 1, 2012, and continuous physical presence in the United States since September 18, 2012).

For individuals who have already been granted TPS under the Somalia designation, the 60-day re-registration period runs from October 31, 2013 through December 30, 2013. USCIS will issue new EADs with a September 17, 2015 expiration date to eligible Somali TPS beneficiaries who timely re-register and apply for EADs under this extension.

**DATES:** The 18-month extension of the TPS designation of Somalia is effective March 18, 2014, and will remain in effect through September 17, 2015. The 60-day re-registration period runs from October 31, 2013 through December 30, 2013.

**FOR FURTHER INFORMATION CONTACT:**

- For further information on TPS, including guidance on the application process and additional information on eligibility, please visit the USCIS TPS Web page at *http://www.uscis.gov/tps.*

You can find specific information about this extension of Somalia for TPS by selecting ''TPS Designated Country: Somalia'' from the menu on the left of the TPS Web page.

- You can also contact the TPS Operations Program Manager at the Family and Status Branch, Service Center Operations Directorate, U.S. Citizenship and Immigration Services, Department of Homeland Security, 20 Massachusetts Avenue NW., Washington, DC 20529–2060; or by phone at (202) 272–1533 (this is not a toll-free number). Note: The phone number provided here is solely for questions regarding this TPS notice. It is not for individual case status inquires.

- 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). Service is available in English and Spanish.

- Further information will also be available at local USCIS offices upon publication of this Notice.

**SUPPLEMENTARY INFORMATION:**

## Table of Abbreviations

AMISOM—African Union Mission in Somalia
BIA—Board of Immigration Appeals
DHS—Department of Homeland Security
DOS—Department of State
EAD—Employment Authorization Document
FNC—Final Nonconfirmation
GOS—Government of Somalia
Government—U.S. Government
IDP—Internally Displaced Person
IJ—Immigration Judge
INA—Immigration and Nationality Act
OSC—U.S. Department of Justice, Office of Special Counsel for Immigration-Related Unfair Employment Practices
SAVE—USCIS Systematic Alien Verification for Entitlements Program
Secretary—Secretary of Homeland Security
TFG—Transitional Federal Government
TNC—Tentative Nonconfirmation
TPS—Temporary Protected Status
TTY—Text Telephone
UN—United Nations
USCIS—U.S. Citizenship and Immigration Services

## What is Temporary Protected Status (TPS)?

- TPS is a temporary immigration status granted to eligible nationals of a country designated for TPS under the Immigration and Nationality Act (INA), or to persons without nationality who last habitually resided in the designated country.

- During the TPS designation period, TPS beneficiaries are eligible to remain in the United States, may not be removed, and may obtain work authorization, so long as they continue to meet the requirements of TPS.

- TPS beneficiaries may also be granted travel authorization as a matter of discretion.

- The granting of TPS does not lead to permanent resident status.

- When the Secretary terminates a country's TPS designation, beneficiaries return to the same immigration status they maintained before TPS, if any (unless that status has since expired or been terminated), or to any other lawfully obtained immigration status they received while registered for TPS.

## When was Somalia designated for TPS?

On September 16, 1991, the Attorney General designated Somalia for TPS based on extraordinary and temporary conditions resulting from armed conflict. *See* 56 FR 46804 (Sept. 16, 1991). The initial designation was extended nine times based on determinations that the conditions warranting the designation continued to be met. On September 4, 2001, the Attorney General both extended Somalia's TPS designation for a tenth time and redesignated Somalia for TPS. *See* 66 FR 46288 (Sept. 4, 2001). Under the 2001 redesignation, the Attorney General revised the date from which applicants had to show they had been ''continuously residing'' in and ''continuously physically present'' in the United States to September 4, 2001. Somalia's TPS designation was subsequently extended nine additional times, including on May 1, 2012, when the Secretary both extended and redesignated Somalia for TPS. Under the 2012 redesignation, the Secretary revised the ''continuous residence'' date to May 1, 2012 and the ''continuous physical presence'' date to September 18, 2012. *See* 77 FR 25723 (May 1, 2012). This announcement is the first extension of TPS for Somalia since the 2012 extension and redesignation.

## What authority does the Secretary of Homeland Security have to extend the designation of Somalia for TPS?

Section 244(b)(1) of the INA, 8 U.S.C. 1254a(b)(1), authorizes the Secretary, after consultation with appropriate Government agencies, to designate a foreign state (or part thereof) for TPS.[1] The Secretary may then grant TPS to eligible nationals of that foreign state (or aliens having no nationality who last habitually resided in that state). *See* INA

[1] As of March 1, 2003, in accordance with section 1517 of title XV of the Homeland Security Act of 2002 (HSA), Public Law 107–296, 116 Stat. 2135, any reference to the Attorney General in a provision of the INA describing functions transferred from the Department of Justice to DHS ''shall be deemed to refer to the Secretary'' of Homeland Security. *See* 6 U.S.C. 557 (codifying HSA, tit. XV, section 1517).

section 244(a)(1)(A), 8 U.S.C. 1254a(a)(1)(A).

At least 60 days before the expiration of a country's TPS designation or extension, the Secretary, after consultation with appropriate Government agencies, must review the conditions in a foreign state designated for TPS to determine whether the conditions for the TPS designation continue to be met. *See* INA section 244(b)(3)(A), 8 U.S.C. 1254a(b)(3)(A). If the Secretary determines that a foreign state continues to meet the conditions for TPS designation, the designation is extended for an additional 6 months (or in the Secretary's discretion for 12 or 18 months). *See* INA section 244(b)(3)(C), 8 U.S.C. 1254a(b)(3)(C). If the Secretary determines that the foreign state no longer meets the conditions for TPS designation, the Secretary must terminate the designation. *See* INA section 244(b)(3)(B), 8 U.S.C. 1254a(b)(3)(B).

**Why is the Secretary extending the TPS designation for Somalia through September 17, 2015?**

Over the past year, DHS and the Department of State (DOS) have continued to review conditions in Somalia. Based on this review and after consulting with DOS, the Secretary has determined that an 18-month extension is warranted because the conditions that led to the 2012 redesignation of Somalia for TPS—(1) ongoing armed conflict and (2) extraordinary and temporary conditions that prevent Somali nationals from returning to Somalia in safety—continue to exist.

Somalia ended its 8-year transitional period of governance in September 2012 with the formation of a new and more representative federal parliament and that parliament's indirect election of Hassan Sheikh Mohamud as President. The Somaliland and Puntland regions, in the north of Somalia, are relatively stable, and the administrations of each are able to provide some degree of social services, including minimal law enforcement. President Hassan Sheikh's Government of Somalia (GOS) has prioritized security and peace among its ''Six Pillar Policy'' framework of the new administration. Though the country is now transitioning to more permanent governing institutions, the GOS still retains little control of the territory and has little capacity to govern beyond Mogadishu. No effective political parties yet exist. Two decades of conflict in Somalia and the country's most severe drought in 60 years have led to what has been referred to as the worst humanitarian crisis in the world. A sustained military campaign against al-Shabaab throughout 2012 resulted in large numbers of civilian deaths and displacement. During the same period, targeted attacks by al-Shabaab, using suicide bombers and improvised explosive devices, resulted in significant civilian causalities. Al-Shabaab still controls large rural areas in southern Somalia and as far north as Puntland, and denies both the Somali government and humanitarian organizations access to people in those areas. Although it no longer maintains an open presence in the capital, Al Shabaab has continued to carry out coordinated asymmetric attacks in Mogadishu in 2013.

A severe drought and famine that lasted from July 2011 to February 2012 is estimated to have resulted in approximately 258,000 deaths. About half, or some 133,000 of the Somalis who perished, were children under 5 years of age, according to the United Nations (UN) Food and Agricultural Organization. Recovery from the famine has been slow. Internal displacement remained a major problem during 2012 as hundreds of thousands of people continued to be displaced by fighting, insecurity, and malnutrition. Estimates of internally displaced persons at the end of 2012 were as high as 1.36 million. Displacement resulted from conflict as fighting escalated in Mogadishu, Kismayo and the Afgoye corridor at various points in 2012. An October 2012 flood in Beletweyn-Hiiraan in central Somalia affected 60,000 and resulted in 39,000 people receiving shelter and survival aid from the International Committee of the Red Cross. During the first quarter of 2013 an additional 14,000 individuals were displaced. As of May 2013, in Mogadishu alone there were 369,000 IDPs.

Humanitarian access and assistance remains restricted inside parts of Somalia due to ongoing conflict, al-Shabaab prohibitions on international aid organizations, insecurity, and diversion of aid. Somalia's displaced population has been victim to theft, extortion, and the threat of forced evictions by abusive groups controlling IDP sites. These threats combined with lack of infrastructure and logistical challenges have caused difficulties in protecting vulnerable IDP populations. During 2012, nine humanitarian personnel were killed, one was wounded, and four were kidnapped. Access to aid gradually improved during 2012, in limited urban areas, but the country presents a challenging operating environment as deliberate obstruction by groups continues to restrict access to humanitarian assistance and create high risks for aid workers.

Transitional Federal Government (TFG) forces and the African Union Mission in Somalia (AMISOM) military launched successful offensives against al-Shabaab in 2011. By August 2011, AMISOM and TFG forces had expelled al-Shabaab from the capital city of Mogadishu. Kenyan forces took control of the major port city, Kismayo, from al-Shabaab in September 2012. A sustained military campaign against al-Shabaab throughout 2012 resulted in large numbers of civilian deaths and displacement. Targeted attacks by al-Shabaab using suicide bombers and improvised explosive devices resulted in significant civilian causalities. Reliable estimates of nationwide civilian causalities are not currently available. Between January and late September 2012, four hospitals in Mogadishu treated 5,219 casualties, with 118 dying from weapon-related injuries.

Somalis who have sought to move to the relatively more secure regions of Puntland and Somaliland have in some cases been expelled or prosecuted, as they are viewed as outsiders. In al-Shabaab controlled territory, they are at risk of running afoul of al-Shabaab imposed edicts on behavior or of conscription of minors into al-Shabaab forces. Despite initial security sector improvements and restructuring, the GOS currently does not have the capability to provide improved rule of law for Somali citizens.

Additionally, Somalis have fled to neighboring countries in an attempt to find refuge. In July 2012, the Office of the UN High Commissioner for Refugees announced that the population exodus from Somalia had exceeded one million, with refugees having fled mainly to Kenya (with approximately 535,000 registered Somali refugees at the end of July 2012), Yemen, and Ethiopia. As of January 2013, there were approximately 1.1 million refugees outside of Somalia and 33,000 asylum seekers worldwide. One million Somalis, or 14 percent of the total population, are experiencing acute food insecurity. The IDPs amount to 60 percent of the total population experiencing acute food insecurity. It is estimated that 2.7 million Somalis are dependent on humanitarian assistance. Authorities in the Transitional Federal Government and Government of Somalia (TFG/GOS), Somaliland, and Puntland administrations have provided some protection and assistance to IDPs, although the response in TFG/GOS areas has been largely ineffective as a consequence of limitations on resources, capacity, and poor coordination.

Gender-based violence, including sexual assault of female IDPs, has remained a problem. In Mogadishu and surrounding areas between January and November 2012, almost one-third of the recorded incidents were against children. Many cases involved assaults by armed men in uniform.

In many parts of Somalia, including Mogadishu, public security is unstable. The capacity of the GOS to process, accommodate, and provide assistance to returnees is extremely limited. It is unable to assist or monitor the welfare of IDP or refugee returnees to communities still controlled by al-Shabaab. Returnees may be more vulnerable than the average Somali if they are unable to reestablish themselves in their clan structure or community of origin.

Based upon this review and after consultation with appropriate Government agencies, the Secretary finds that:

- The conditions that prompted the May 1, 2012 redesignation of Somalia for TPS continue to be met. *See* INA section 244(b)(3)(A) and (C), 8 U.S.C. 1254a(b)(3)(A) and (C).
- There continue to be an ongoing armed conflict and extraordinary and temporary conditions in Somalia that prevent Somali nationals from returning to Somalia in safety. *See* INA section 244(b)(1)(A) and (C), 8 U.S.C. 1254a(b)(1)(A) and (C).
- It is not contrary to the national interest of the United States to permit Somalis (and persons who have no nationality who last habitually resided in Somalia) who meet the eligibility requirements of TPS to remain in the United States temporarily. *See* INA section 244(b)(1)(C), 8 U.S.C. 1254a(b)(1)(C).
- The designation of Somalia for TPS should be extended for an additional 18-month period from March 18, 2014 through September 17, 2015. *See* INA section 244(b)(3)(C), 8 U.S.C. 1254a(b)(3)(C).
- There are approximately 400 current Somalia TPS beneficiaries who are expected to be eligible to re-register for TPS under the extension.

## Notice of Extension of the TPS Designation of Somalia

By the authority vested in me as Secretary under INA section 244, 8 U.S.C. 1254a, I have determined, after consultation with the appropriate Government agencies, that the conditions that prompted the redesignation of Somalia for TPS on May 1, 2012 continue to be met. *See* INA section 244(b)(3)(A), 8 U.S.C. 1254a(b)(3)(A). On the basis of this determination, I am extending the existing TPS designation of Somalia for 18 months from March 18, 2014 through September 17, 2015. *See* INA section 244(b)(1)(A) and (C) and (b)(2), 8 U.S.C. 1254a(b)(1)(A) and (C) and (b)(2).

**Rand Beers,**

*Acting Secretary.*

## Required Application Forms and Application Fees To Register or Re-Register for TPS

To register or re-register for TPS for Somalia, an applicant must submit each of the following two applications:

1. Application for Temporary Protected Status (Form I–821).

- If you are filing an application for late initial registration, you must pay the fee for the Application for Temporary Protected Status (Form I–821). *See* 8 CFR 244.2(f)(2) and 244.6 and information on late initial filing on the USCIS TPS Web page at *http://www.uscis.gov/tps.*
- If you are filing an application for re-registration, you do not need to pay the fee for the Application for Temporary Protected Status (Form I–821). *See* 8 CFR 244.17. and

2. Application for Employment Authorization (Form I–765).

- If you are applying for late initial registration and want an EAD, you must pay the fee for the Application for Employment Authorization (Form I–765) only if you are age 14 through 65. No fee for the Application for Employment Authorization (Form I–765) is required if you are under the age of 14 or are 66 and older and applying for late initial registration.
- If you are applying for re-registration, you must pay the fee for the Application for Employment Authorization (Form I–765) only if you want an EAD regardless of age.
- You do not pay the fee for the Application for Employment Authorization (Form I–765) if you are not requesting an EAD, regardless of whether you are applying for late initial registration or re-registration.

You must submit both completed application forms together. If you are unable to pay for the application and/or biometrics fee, you may apply for a fee waiver by completing a Request for Fee Waiver (Form I–912) or submitting a personal letter requesting a fee waiver, and by providing satisfactory supporting documentation. For more information on the application forms and fees for TPS, please visit the USCIS TPS Web page at *http://www.uscis.gov/tps.* Fees for the Application for Temporary Protected Status (Form I–821), the Application for Employment Authorization (Form I–765), and biometric services are also described in 8 CFR 103.7(b)(1)(i).

### Biometric Services Fee

Biometrics (such as fingerprints) are required for all applicants 14 years of age or older. Those applicants must submit a biometric services fee. As previously stated, if you are unable to pay for the biometric services fee, you may apply for a fee waiver by completing a Request for Fee Waiver (Form I–912) or by submitting a personal letter requesting a fee waiver, and providing satisfactory supporting documentation. For more information on the biometric services fee, please visit the USCIS Web site at *http://www.uscis.gov.* If necessary, you may be required to visit an Application Support Center to have your biometrics captured.

### Re-Filing a Re-Registration TPS Application After Receiving a Denial of a Fee Waiver Request

USCIS urges all re-registering applicants to file as soon as possible within the 60-day re-registration period so that USCIS can process the applications and issue EADs promptly. Filing early will also allow those applicants who may receive denials of their fee waiver requests to have time to re-file their applications *before* the re-registration deadline. If, however, an applicant receives a denial of his or her fee waiver request and is unable to re-file by the re-registration deadline, the applicant may still re-file his or her application. This situation will be reviewed to determine whether the applicant has established good cause for late re-registration. However, applicants are urged to re-file within 45 days of the date on their USCIS fee waiver denial notice, if at all possible. *See* INA section 244(c)(3)(C); 8 U.S.C. 1254a(c)(3)(C); 8 CFR 244.17(c). For more information on good cause for late re-registration, visit the USCIS TPS Web page at *http://www.uscis.gov/tps.* **Note:** As previously stated, although a re-registering TPS beneficiary age 14 and older must pay the biometric services fee (but not the initial TPS application fee) when filing a TPS re-registration application, the applicant may decide to wait to request an EAD, and therefore not pay the Application for Employment Authorization (Form I–765) fee, until after USCIS has approved the individual's TPS re-registration, if he or she is eligible.

### Mailing Information

Mail your application for TPS to the proper address in Table 1.

TABLE 1—MAILING ADDRESSES

| If . . . | Mail to . . . |
|---|---|
| You are applying through the U.S. Postal Service | USCIS, Attn: TPS Somalia, P.O. Box 6943, Chicago, IL 60680–6943. |
| You are using a non-U.S. Postal Service delivery service | USCIS, Attn: TPS Somalia, 131 S. Dearborn 3rd Floor, Chicago, IL 60603–5517. |

If you were granted TPS by an Immigration Judge (IJ) or the Board of Immigration Appeals (BIA), and you wish to request an EAD, or are re-registering for the first time following a grant of TPS by the IJ or BIA, please mail your application to the appropriate address in Table 1. Upon receiving a Notice of Action (Form I–797) from USCIS, please send an email to *TPSijgrant.vsc@uscis.dhs.gov* with the receipt number and state that you submitted a re-registration and/or request for an EAD based on an IJ/BIA grant of TPS. You can find detailed information on what further information you need to email and the email addresses on the USCIS TPS Web page at *http://www.uscis.gov/tps.*

**E-Filing**

You cannot electronically file your application when re-registering or submitting a late initial registration for Somalia TPS. Please mail your application to the mailing address listed in Table 1.

**Employment Authorization Document (EAD)**

*May I request an interim EAD at my local USCIS office?*

No. USCIS will not issue interim EADs to TPS applicants and re-registrants at local offices.

*Will my current EAD that is set to expire on March 17, 2014, be automatically extended for 6 months?*

No. This notice does not automatically extend previously issued EADs. DHS has announced the extension of the TPS designation of Somalia and established the re-registration period at an early date to allow sufficient time for USCIS to process EAD requests prior to the March 17, 2014 expiration date. You must apply during the 60-day re-registration period. Failure to file your TPS application during the re-registration period without good cause may result in gaps in work authorization. DHS strongly encourages you to apply as early as possible within the re-registration period.

*When hired, what documentation may I show to my employer as proof of employment authorization and identity when completing Employment Eligibility Verification (Form I–9)?*

You can find a list of acceptable document choices on the ''Lists of Acceptable Documents'' for Employment Eligibility Verification (Form I–9). You can find additional detailed information on the USCIS I–9 Central Web page at *http://www.uscis.gov/I-9Central.* Employers are required to verify the identity and employment authorization of all new employees by using Employment Eligibility Verification (Form I–9). Within 3 days of hire, an employee must present proof of identity and employment authorization to his or her employer.

You may present any document from List A (reflecting both your identity and employment authorization), or one document from List B (reflecting identity) together with one document from List C (reflecting employment authorization). You may present an acceptable receipt for List A, List B, or List C documents as described in the Form I–9 Instructions. An EAD is an acceptable document under ''List A.'' Employers may not reject a document based on a future expiration date.

*What documentation may I show my employer if I am already employed but my current TPS-related EAD is set to expire?*

At the time of expiration, you must present any document from List A or any document from List C on Employment Eligibility Verification (Form I–9) to re-verify employment authorization, or an acceptable List A or List C receipt described in the Form I–9 instructions. Your employer is required to re-verify on Employment Eligibility Verification (Form I–9) the employment authorization of current employees upon the expiration of a TPS-related EAD. Your employer should use either Section 3 of the Employment Eligibility Verification (Form I–9) originally completed for the employee or, if this section has already been completed or if the version of Employment Eligibility Verification (Form I–9) is no longer valid, complete Section 3 of a new Employment Eligibility Verification (Form I–9) using the most current version. Note that your employer may not specify which List A or List C document employees must present, and cannot reject an acceptable receipt.

USCIS anticipates that it will be able to process and issue new EADs for existing TPS Somalia beneficiaries before their current EADs expire on March 17, 2014. However, re-registering beneficiaries are encouraged to file as early as possible within the 60-day re-registration period to help ensure that they receive their EADs promptly.

*Can my employer require that I produce any other documentation to prove my status, such as proof of my Somali citizenship?*

No. When completing Employment Eligibility Verification (Form I–9), including re-verifying employment authorization, employers must accept any documentation that appears on the ''Lists of Acceptable Documents'' for Employment Eligibility Verification (Form I–9) and that reasonably appears to be genuine and that relates to you or an acceptable List A, List B, or List C receipt. Employers may not request documentation that does not appear on the ''Lists of Acceptable Documents.'' Therefore, employers may not request proof of Somali citizenship when completing Employment Eligibility Verification (Form I–9) for new hires or re-verifying the employment authorization of current employees. If presented with EADs that are unexpired on their face, employers should accept such EADs as valid List A documents so long as the EADs reasonably appear to be genuine and to relate to the employee. Refer to the Note to Employees section for important information about your rights if your employer rejects lawful documentation, requires additional documentation, or otherwise discriminates against you based on your citizenship or immigration status, or your national origin.

**Note to All Employers**

Employers are reminded that the laws requiring proper employment eligibility verification and prohibiting unfair immigration-related employment

practices remain in full force. This Notice does not supersede or in any way limit applicable employment verification rules and policy guidance, including those rules setting forth re-verification requirements. For general questions about the employment eligibility verification process, employers may call USCIS at 888–464–4218 (TTY 877–875–6028) or email USCIS at *I-9Central@dhs.gov.* Calls and emails are accepted in English and many other languages. For questions about avoiding discrimination during the employment eligibility verification process, employers may also call the U.S. Department of Justice, Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC) Employer Hotline at 800–255–8155 (TTY for the hearing impaired is at 800–237–2515), which offers language interpretation in numerous languages, or email OSC at *osccrt@usdoj.gov.*

**Note to Employees**

For general questions about the employment eligibility verification process, employees may call USCIS at 888–897–7781 (TTY 877–875–6028) or email at *I-9Central@dhs.gov.* Calls are accepted in English, Spanish and many other languages. Employees or applicants may also call the OSC Worker Information Hotline at 800–255–7688 (TTY for the hearing impaired is at 800–237–2515) for information regarding employment discrimination based upon citizenship, immigration status, or national origin, or for information regarding discrimination related to Employment Eligibility Verification (Form I–9) and E-Verify. The OSC Worker Information Hotline provides language interpretation in numerous languages.

To comply with the law, employers must accept any document or combination of documents from the List of Acceptable Documents if the documentation reasonably appears to be genuine and to relate to the employee, or an acceptable List A, List B, or List C receipt described in the Form I–9 Instructions. Employers may not require extra or additional documentation beyond what is required for Employment Eligibility Verification (Form I–9) completion. Further, employers participating in E-Verify who receive an E-Verify case result of ''Tentative Nonconfirmation'' (TNC) must promptly inform employees of the TNC and give such employees an opportunity to contest the TNC. A TNC case result means that the information entered into E-Verify from Employment Eligibility Verification (Form I–9) differs from the Social Security Administration, DHS, or DOS records. Employers may not terminate, suspend, delay training, withhold pay, lower pay or take any adverse action against an employee based on the employee's decision to contest a TNC or because the case is still pending with E-Verify. A Final Nonconfirmation (FNC) case result is received when E-Verify cannot verify an employee's employment eligibility. An employer may terminate employment based on a case result of FNC. Work-authorized employees who receive an FNC may call USCIS for assistance at 888–897–7781 (TTY 877–875–6028). An employer that discriminates against an employee in the E-Verify process based on citizenship or immigration status, or based on national origin, may contact OSC's Worker Information Hotline at 800–255–7688 (TTY for the hearing impaired is at 800–237–2515). Additional information about proper nondiscriminatory Employment Eligibility Verification (Form I–9) and E-Verify procedures is available on the OSC Web site at *http://www.justice.gov/crt/about/osc/* and the USCIS Web site at *http://www.dhs.gov/E-verify.*

**Note Regarding Federal, State, and Local Government Agencies (Such as Departments of Motor Vehicles)**

While Federal government agencies must follow the guidelines laid out by the Federal government, state and local government agencies establish their own rules and guidelines when granting certain benefits. Each state may have different laws, requirements, and determinations about what documents you need to provide to prove eligibility for certain benefits. Whether you are applying for a Federal, state, or local government benefit, you may need to provide the government agency with documents that show you are a TPS beneficiary and/or show you are authorized to work based on TPS. Examples are:

(1) Your unexpired EAD;

(2) A copy of your Application for Temporary Protected Status Notice of Action (Form I–797) for this re-registration; and/or

(3) A copy of your past or current Application for Temporary Protected Status Approval Notice (Form I–797), if you received one from USCIS.

Check with the government agency regarding which document(s) the agency will accept. You may also provide the agency with a copy of this **Federal Register** Notice.

Some benefit-granting agencies use the USCIS Systematic Alien Verification for Entitlements Program (SAVE) to verify the current immigration status of applicants for public benefits. If such an agency has denied your application based solely or in part on a SAVE response, the agency must offer you the opportunity to appeal the decision in accordance with the agency's procedures. If the agency has received and acted upon or will act upon a SAVE verification and you do not believe the response is correct, you may make an InfoPass appointment for an in-person interview at a local USCIS office. Detailed information on how to make corrections, make an appointment, or submit a written request can be found at the SAVE Web site at *http://www.uscis.gov/save,* then by choosing ''How to Correct Your Records'' from the menu on the right.

[FR Doc. 2013–25969 Filed 10–31–13; 8:45 am]

BILLING CODE 9111–97–P

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–5683–C–93]**

## 30-Day Notice of Proposed Information Collection: Technical Processing Requirements for Multifamily Project Mortgage Insurance

**AGENCY:** Office of the Chief Information Officer, HUD.

**ACTION:** Correction, notice.

**SUMMARY:** On October 25, 2013 at 78 FR 64146 HUD published a 30 day notice of proposed information collection. This notice replaces the notice published on October 25, 2013.

HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

**DATES:** *Comments Due Date:* December 2, 2013.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

**FOR FURTHER INFORMATION CONTACT:** Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Colette Pollard at

*Colette.Pollard@hud.gov* or telephone 202–402–3400. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

**SUPPLEMENTARY INFORMATION:** This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on August 27, 2013.

**A. Overview of Information Collection**

*Title of Information Collection:* Technical Processing Requirements for Multifamily Project Mortgage Insurance.

*OMB Approval Number:* 2502–0594.

*Type of Request:* Extension of currently approved .

*Form Number:* HUD–92415, HUD–92433, FHA 2455, FHA–2459, HUD–3305, HUD–92450, HUD–92403, HUD–2456, HUD2283, HUD–92433, HUD–92466, HUD–3306.

*Description of the need for the information and proposed use:* The information collection is analyzed by HUD during the four technical discipline phases of an application for mortgage insurance—underwriting, valuation, architectural, and mortgage credit analysis. HUD performs each phases during the application process to ensure the financial, physical, and environmental soundness of the project, as well as the potential insurance risk. Sponsors, mortgagors and contractors are required to undergo a thorough examination to determine their solvency, reliability, past experience, and dependability to develop, build, and operate the type of multifamily housing project they propose.

*Respondents (i.e. affected public):* Business and other for profit.

*Estimated Annual Reporting and Recordkeeping Burden:* The number of Estimated Number of Respondents: 9,250. Estimated Number of Responses: 11,050. Frequency of Response: Annual. Average Hours per Response: Total Estimated Burdens: 9,250.

**B. Solicitation of Public Comment**

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. HUD encourages interested parties to submit comment in response to these questions.

**Authority:** Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: October 29, 2013.

**Colette Pollard,**

*Department Reports Management Officer, Office of the Chief Information Officer.*

[FR Doc. 2013–26125 Filed 10–31–13; 8:45 am]

**BILLING CODE 4210–67–P**

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## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–5683–C–92]**

## 30-Day Notice of Proposed Information Collection: Housing Finance Agency Risk-Sharing Program

**AGENCY:** Office of the Chief Information Officer, HUD.

**ACTION:** Correction, notice.

**SUMMARY:** On October 25, 2013 at 78 FR 64145 HUD published a 30 day notice of proposed information collection. This notice replaces the notice published on October 25, 2013. HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

**DATES:** *Comments Due Date:* December 2, 2013.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov*.

**FOR FURTHER INFORMATION CONTACT:** Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

**SUPPLEMENTARY INFORMATION:** This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on August 27, 2013.

**A. Overview of Information Collection**

*Title of Information Collection:* Housing Finance Agency Risk-Sharing Program.

*OMB Approval Number:* 2502–0500.

*Type of Request:* Extension of currently approved.

*Form Number:* HUD–94195, HUD–94196, HUD–94193, HUD–94194, HUD–94192.

*Description of the need for the information and proposed use:* Section 542 of the Housing and Community Development Act of 1992 directs the Secretary to implement risk sharing with State and local housing finance agencies (HFAs). Under this program, HUD provides full mortgage insurance on multifamily housing projects whose loans are underwritten, processed, and serviced by HFAs. The HFAs will reimburse HUD a certain percentage of any loss under an insured loan depending upon the level of risk the HFA contracts to assume. The Department requires information collection of loan origination, loan closing, loan management, and servicing in accordance with 25 CFR 266 and HUD Handbook 4590.01. This information must be available to the Department to assess participating HFAs compliance with program.

*Respondents (i.e. affected public):* Business and other for profit.

*Estimated Annual Reporting and Recordkeeping Burden:* The number of Estimated Number of Respondents: 915. Estimated Number of Responses: 14,808. Frequency of Response: Annually, Semi-annually, and on Occasion. Average Hours per Response: 30 minutes to 35. Total Estimated Burden: 28,919.

**B. Solicitation of Public Comment**

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. HUD encourages interested parties to submit comment in response to these questions.

**Authority:** Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: October 29, 2013.

**Colette Pollard,**

*Department Reports Management Officer, Office of the Chief Information Officer.*

[FR Doc. 2013–26123 Filed 10–31–13; 8:45 am]

**BILLING CODE 4210–67–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–5683–N–96]**

## 30-Day Notice of Proposed Information Collection: Public Housing, Contracting With Resident-Owned Businesses—Application Requirements

**AGENCY:** Office of the Chief Information Officer, HUD.

**ACTION:** Notice.

**SUMMARY:** HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

**DATES:** *Comments Due Date:* December 2, 2013.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

**FOR FURTHER INFORMATION CONTACT:** Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

**SUPPLEMENTARY INFORMATION:** This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on August 05, 2013.

### A. Overview of Information Collection

*Title of Information Collection:* Public Housing, Contracting with Resident-Owned Businesses–Application Requirements.

*OMB Approval Number:* 2577–0161.

*Type of Request:* Reinstatement without change of a previously approved collection.

*Form Number:* None.

*Description of the need for the information and proposed use:*

PHAs that enter into contracts with resident-owned businesses must comply with the requirements/procedures set forth in 24 CFR 963.10, 24 CFR 963.12, 24 CFR 85.36(h), 24 CFR 85.36(i) and other such contract terms that may be applicable to the procurement under the Department's regulations. These requirements include:

- Certified copies of any State, county, or municipal licenses that may be required of the business to engage in the type of business activity for which it was formed. Where applicable, the PHA must obtain a certified copy of its corporate charter or other organizational document that verifies that the business was properly formed in accordance with State law;
- Certification that shows the business is owned by residents, disclosure documents that indicate all owners of the business and each owner's percentage of the business along with sufficient evidence sufficient that demonstrates to the satisfaction of the PHA that the business has the ability to perform successfully under the terms and conditions of the proposed contract;
- Certification as to the number of contracts awarded, and the dollar amount of each contract award received, under the alternative procurement process; and
- Contract award documents, proof of bonding documents, independent cost estimates and comparable price analyses.
- *Members of Affected Public:* Public Housing Agencies and Applicable Resident Entrepreneurs
- *Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:* Estimated number of respondents: 81. The calculation for burden hours is as follows: Calculation for number of respondents: 81 (estimated number of PHAs contracting with resident owned businesses) × 24 (number of hours for procurement process) = 1,944 total hours.

| Number of PHAs | Number of responses annually* | Hours per response | Total annual burden hours |
|---|---|---|---|
| 81 | 81 | *24 | 1,944 |

### B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. HUD encourages interested parties to submit comment in response to these questions.

**Authority:** Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: October 29, 2013.

**Colette Pollard,**

*Department Reports Management Officer, Office of the Chief Information Officer.*

[FR Doc. 2013–26166 Filed 10–31–13; 8:45 am]

**BILLING CODE 4210–67–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–5681–N–42]**

### Federal Property Suitable as Facilities To Assist the Homeless

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development, HUD.

**ACTION:** Notice.

**SUMMARY:** This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

**FOR FURTHER INFORMATION CONTACT:** Juanita Perry, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7262, Washington, DC 20410; telephone (202) 402–3970; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at (800) 927–7588.

**SUPPLEMENTARY INFORMATION:** In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: October 24, 2013.

**Mark Johnston,**

*Deputy Assistant Secretary for Special Needs.*

[FR Doc. 2013–25573 Filed 10–31–13; 8:45 am]

**BILLING CODE 4210–67–P**

## DEPARTMENT OF THE INTERIOR

### Office of the Secretary

### Wildland Fire Executive Council Meeting Schedule

**AGENCY:** Office of the Secretary, Interior.

**ACTION:** Notice of Meeting.

**SUMMARY:** In accordance with the requirements of the Federal Advisory Committee Act, 5 U.S.C. App., 2, the U.S. Department of the Interior, Office of the Secretary, Wildland Fire Executive Council (WFEC) will meet as indicated below.

**DATES:** The next meeting will be held November 15, 2013.

**ADDRESSES:** The meetings will be held from 10:00 a.m. to 2:00 p.m. on November 15, 2013 at the Main Interior Building, 1849 C Street, Room 2654 NW., Washington, DC 20240.

**FOR FURTHER INFORMATION CONTACT:** Shari Eckhoff, Designated Federal Officer, 300 E Mallard Drive, Suite 170, Boise, Idaho 83706; telephone (208) 334–1552; fax (208) 334–1549; or email *Shari_Eckhoff@ios.doi.gov.*

**SUPPLEMENTARY INFORMATION:** The WFEC is established as a discretionary advisory committee under the authorities of the Secretary of the Interior and Secretary of Agriculture, in furtherance of 43 U.S.C. 1457 and provisions of the Fish and Wildlife Act of 1956 (16 U.S.C. 742a–742j), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et. seq*), the National Wildlife Refuge System improvement Act of 1997 (16 U.S.C. 668dd–668ee), and the National Forest Management Act of 1976 (16 U.S.C. 1600 *et. seq*) and in accordance with the provisions of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. 2. The Secretary of the Interior and Secretary of Agriculture certify that the formation of the WFEC is necessary and is in the public interest.

The purpose of the WFEC is to provide advice on coordinated national-level wildland fire policy and to provide leadership, direction, and program oversight in support of the Wildland Fire Leadership Council. Questions related to the WFEC should be directed to Shari Eckhoff (Designated Federal Officer) at *Shari_Eckhoff@ios.doi.gov* or (208) 334–1552 or 300 E. Mallard Drive, Suite 170, Boise, Idaho, 83706–6648.

*Meeting Agenda:* The meeting agenda will include: (1) Welcome and introduction of council members; (2) Final approval of the Cohesive Strategy National Report; (3) public comments; (4) Develop recommendations to go forward to the Secretary of the Interior and Secretary of Agriculture through the Wildland Fire Leadership Council; and (5) closing remarks. Participation is open to the public.

*Public Input:* All WFEC meetings are open to the public. Members of the public who wish to participate must notify Shari Eckhoff at *Shari_Eckhoff@ios.doi.gov* no later than the Friday preceding the meeting. Those who are not committee members and wish to present oral statements or obtain information should contact Shari Eckhoff via email no later than the Friday preceding the meeting. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited.

Questions about the agenda or written comments may be emailed or submitted by U.S. Mail to: Department of the Interior, Office of the Secretary, Office of Wildland Fire, Attention: Shari Eckhoff, 300 E. Mallard Drive, Suite 170, Boise, Idaho 83706–6648. WFEC requests that written comments be received by the Friday preceding the scheduled meeting. Attendance is open to the public, but limited space is available. Persons with a disability requiring special services, such as an interpreter for the hearing impaired, should contact Ms. Eckhoff at (202) 527–0133 at least seven calendar days prior to the meeting.

Dated: October 28, 2013.

**Shari Eckhoff,**

*Designated Federal Officer.*

[FR Doc. 2013–26058 Filed 10–31–13; 8:45 am]

**BILLING CODE 4310–J4–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[LLWYR05000.L51100000.GN0000. LVEMK10CW370–WYW–140590]**

### Notice of Availability of the Final Environmental Impact Statement for the Gas Hills In Situ Recovery Uranium Project, Fremont and Natrona Counties, WY

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** In accordance with the National Environmental Policy Act of 1969, as amended, the Bureau of Land Management (BLM) has prepared a Final Environmental Impact Statement (EIS) for the Gas Hills In Situ Recovery (ISR) Uranium Project and by this notice is announcing a 30-day availability period prior to preparing a Record of Decision (ROD).

**DATES:** The Gas Hills ISR Uranium Project Final EIS will be available until December 2, 2013.

**ADDRESSES:** Copies of the Final EIS and other documents pertinent to this proposal may be examined at the following BLM offices:

- Lander Field Office, 1335 Main Street, Lander, WY 82520;
- High Plains District Office, 2987 Prospector Drive, Casper, WY 82604;

• Wind River/Bighorn Basin District Office, 101 South 23rd, Worland, WY 82401; and

• Wyoming State Office, 5353 Yellowstone Road, Cheyenne, WY 82009.

Interested persons may also view and download the documents online at: *www.blm.gov/wy/st/en/info/NEPA/documents/lfo/gashills.html.*

**FOR FURTHER INFORMATION CONTACT:** Tom Sunderland, Project Manager, telephone: 307–332–8400; mailing address: 1335 Main Street, Lander, WY 82520; email: *Gas_Hills_Uranium_EIS_WY@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** The applicant, Power Resources Inc., a wholly owned subsidiary of Cameco US Holdings, Inc., doing business as Cameco Resources, has filed a Plan of Operations pursuant to 43 CFR subpart 3809 regulations to construct uranium recovery facilities including: Waste water disposal facilities; access roads; pipelines and utility lines; delineation, injection and production wells; and improving one existing and constructing one new equipment-housing satellite facility used in the ISR process. The project would be located in eastern Fremont and western Natrona counties, approximately 45 road miles east of Riverton, Wyoming, and approximately 65 road miles west of Casper, Wyoming.

The boundary of the Gas Hills Project Area (GHPA) encompasses approximately 8,500 acres, including approximately 1,300 acres of surface disturbance from the proposed project. Approximately 15 percent of the surface within the GHPA historically was disturbed by previous mining and exploration activities. This disturbance includes an existing warehouse structure (the Carol Shop) and access road (the AML Road).

If the proposed mining operation is not approved, existing reclamation responsibilities under the No-Action alternative would require Cameco to remove and reclaim the existing disturbance once ongoing exploratory activities are concluded. This reclamation would include a minimum of 26.7 acres for the removal of the Carol Shop. If no other use for the existing 1.8 miles of road were identified, it would be removed and reclaimed, for an additional 10.9 acres. Additional notice-level activities would need to be reclaimed as well for a total of 40.2 acres. Existing reclamation responsibilities and notice-level exploration activities allow the current use of the road and Carol Shop.

The Plan of Operations identifies five production areas, or mine units, with subsurface ore bodies within the Wind River Formation for ISR extraction. Construction, operation, groundwater restoration, and surface reclamation of five mine units would occur during an estimated period of approximately 25 years. At the end of the project, all surface structures would be removed, and all disturbances would be re-contoured and reclaimed. In accordance with Nuclear Regulatory Commission (NRC) regulations, any radiological contaminated wastes, including any processing pipe and equipment as well as solid residue or liners from evaporation ponds, would be removed from the Project Area and disposed.

The Final EIS addresses the direct, indirect and cumulative impacts of the Proposed Action and three alternatives including the No Action Alternative, the Resource Protection Alternative and the BLM-Preferred Alternative.

The Proposed Action Alternative is the project proposed by Cameco as identified by the Plan of Operations, the NRC license application, and the Wyoming Department of Environmental Quality Land Quality Division's (WDEQ–LQD) Mine Permit Application #687.

In January 2004, the NRC approved the amendment of Cameco's license SUA–1548 to include operation of the proposed Gas Hills project as a satellite to the Smith-Ranch Highland facility. The WDEQ–LQD approved Cameco's Mine Permit #687 August 2001. Under the Resource Protection Alternative, the project would utilize the same ISR process occurring over the same time period as the Proposed Action, but modifications to the project would reduce surface disturbance and heavy truck transportation. Modifications would include on-site resin processing to produce slurry, submitting an annual development plan, construction timing constraints, a disturbance offset for an additional satellite facility, enhanced reclamation, and power line burial.

The BLM-Preferred Alternative, developed in response to comments received on the Draft EIS, would utilize the same ISR process over the same time period as the Proposed Action with the addition of several elements designed to reduce environmental impacts. These additions would include annual planning and reporting, site-specific reclamation planning and success criteria, construction timing constraints and additional on-site processing.

The Notice of Intent to prepare an EIS was published in the **Federal Register** on September 7, 2010 (75 FR 54384). The scoping comments received in response to this Notice were used while preparing the Draft EIS to help in developing alternatives and to identify issues to be analyzed in the impact analysis. The Notice of Availability of the Draft EIS was published in the **Federal Register** on November 16, 2012 (77 FR 68814). A 45-day public comment period for the Draft EIS was held from November 16, 2012, to December 31, 2012, and then extended by the BLM to January 31, 2013, in response to requests from the public.

Notable changes to the EIS based on comments received include the following:

• Clarify and update the description of specific aspects of the Proposed Action, including evaporation pond use, size and methods to exclude wildlife; disposal methods for waste water and radioactive waste; status and results of exploratory drilling for wastewater disposal wells; and water use and consumption.

• Revise specific aspects of the Project Alternatives, including adding a BLM-Preferred Alternative; eliminating the alternative to reduce the number of evaporation ponds; eliminating burial of overhead power lines from the BLM-Preferred Alternative.

• Revise the air quality analysis to reflect changes to the proponent's transportation plan (i.e., increase in waste hauling trips) and recently updated ambient air quality limits.

• Add newly identified Greater Sage-Grouse lek locations to the impacts analysis.

• Update revegetation rates and success criteria.

• Clarify transportation routes and frequency.

• Clarify permitting through agencies other than the BLM.

• Add a comparative table for Operator-committed Mitigation Measures and BLM-Proposed Mitigation Measures that might be chosen in order to prevent unnecessary or undue degradation.

• Include all comments received on the Draft EIS along with the BLM's responses.

Upon conclusion of the 30-day public availability period following the date EPA publishes the NOA in the **Federal Register**, BLM will prepare and sign the ROD to announce the BLM's final decision on Cameco's application as described in the Plan of Operations and

any project Conditions of Approval. Availability of the ROD will be announced through local media and the project mailing list, and will be posted on the project Web site.

(Authority: 40 CFR 1506.6, 40 CFR 1506.10)

**Donald A. Simpson,**

*State Director, Wyoming.*

[FR Doc. 2013–25923 Filed 10–31–13; 8:45 am]

**BILLING CODE 4310–22–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[LLUT1110000.L16100000.DS0000]**

### Notice of Availability of the Utah Greater Sage-Grouse Draft Land Use Plan Amendments and Environmental Impact Statement

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of Availability.

**SUMMARY:** In accordance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended, the Bureau of Land Management (BLM) and U.S. Forest Service (USFS) have prepared a Utah Greater Sage-Grouse Draft Land Use Plan (LUP) Amendments and Environmental Impact Statement (EIS) and by this notice is announcing the opening of the comment period.

**DATES:** To ensure that comments will be considered, the BLM must receive written comments on the Draft LUP Amendments/EIS within 90 days following the date the Environmental Protection Agency publishes notice of the Draft LUP Amendments/EIS in the **Federal Register**. The BLM and USFS will announce future meetings or hearings and any other public participation activities at least 15 days in advance through public notices, media releases, and/or mailings.

**ADDRESSES:** Interested parties may submit comments related to the Utah Greater Sage-Grouse Draft LUP Amendments/EIS by any of the following methods:

- *Email: blm_ut_comments@blm.gov*
- *Fax:* 801–539–4074
- *Mail:* BLM—Greater Sage-Grouse EIS, 440 West 200 South, Suite 500, Salt Lake City, UT 84101–1345

Copies of the Utah Greater Sage-Grouse Draft LUP Amendments/EIS are available at the BLM Utah State Office at the above address or on the Internet at: *http://www.blm.gov/ut/st/en/prog/planning/SG_RMP_rev.html.*

**FOR FURTHER INFORMATION CONTACT:** Quincy Bahr, Greater Sage-Grouse Project Manager/Environmental Coordinator, telephone 801–539–4122 or Tyler Ashcroft, Environmental Coordinator, telephone 801–539–4068. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to leave a message or question for the above individual. The FIRS is available 24 hours a day, 7 days a week. Replies are provided during normal business hours.

**SUPPLEMENTARY INFORMATION:** The BLM prepared the Utah Greater Sage-Grouse Draft LUP Amendments/EIS to address a range of alternatives focused on specific conservation measures across the Utah range of the Greater Sage-Grouse. This Draft LUP Amendments/EIS is one of 15 separate planning efforts that are being undertaken as part of the BLM and USFS National Greater Sage-Grouse Planning Strategy. Since December 2011, the BLM has invited 56 local, State, Federal, and tribal governments to participate as cooperating agencies (CA) in the Utah Greater Sage-Grouse Draft LUP Amendments/EIS. Twenty-six of the governments have participated as CAs including the USFS, U.S. Fish and Wildlife Service (USFWS), National Resource Conservation Service, State of Utah, and the State of Wyoming.

The Draft LUP Amendments/EIS proposes to amend the LUPs for the Vernal, Price, Richfield, Kanab, Grand Staircase-Escalante National Mounument, Cedar/Beaver/Garfield/Antimony, Pinyon, Warm Springs, House Range, Pony Express, Box Elder, Randolph, Park City, and Salt Lake District Isolated Tracts resource or planning areas. The Draft LUP Amendments/EIS will also be used to amend the LUPs for the Dixie, Fishlake, Uinta-Wasatch-Cache, Ashley, and Manti-La Sal National Forests. The current management decisions for resources are described in the following LUPs:

- Vernal Resource Management Plan (RMP) (2008)
- Price RMP (2008)
- Richfield RMP (2008)
- Kanab RMP (2008)
- Grand Staircase-Escalante National Monument Management Plan (2000)
- Cedar/Beaver/Garfield/Antimony RMP (1986)
- Pinyon Management Framework Plan (MFP) (1978)
- Warm Springs RMP (1987)
- House Range RMP (1987)
- Pony Express RMP (1990)
- Box Elder RMP (1986)
- Randolph MFP (1980)
- Park City MFP (1975)
- Salt Lake District Isolated Tracts Planning Analysis (1985)
- Dixie National Forest Land and Resource Management Plan (LRMP) (1986)
- Fishlake National Forest LRMP (1986)
- Uinta National Forest Revised Forest Plan (2003)
- Wasatch-Cache National Forest Revised Forest Plan (2003)
- Ashley National Forest LRMP (1986)
- Manti-La Sal National Forest LRMP (1986)

The planning area includes approximately 48 million acres of BLM, National Park Service, USFS, Bureau of Reclamation, State, local, and private lands located in Utah. It consists of all lands in the State of Utah, minus Washington and San Juan counties and the portions of the Sawtooth National Forest located in Box Elder County. The planning area also includes portions of the Ashley and Uinta-Wasatch-Cache National Forests that extend into Wyoming. Within the planning area, the BLM and USFS administer approximately 3.3 million surface acres. The BLM also administers approximately 4 million acres of Federal subsurface mineral estate underlying occupied Greater Sage-Grouse habitat. Surface management decisions made as a result of this Draft LUP Amendment/EIS will apply only to the BLM-administered and National Forest System lands in the planning area. Through this land use planning process, the BLM and USFS will identify Greater Sage-Grouse preliminary priority management areas (PPMA) and preliminary general management areas (PGMA).

PPMAs are BLM-administered public lands or National Forest System lands identified as having the highest value to maintaining sustainable Greater Sage-Grouse populations. PGMAs are BLM-administered public lands or National Forest System lands that are not as biologically important as PPMAs. In addition to considering which lands will be managed as PPMAs and PGMAs, each alternative considers a unique set of objectives and management actions.

The formal public scoping process for the Draft LUP Amendments/EIS began on December 9, 2011, with the publication of a Notice of Intent in the **Federal Register** (76 FR 77008), and ended on March 23, 2012. The BLM held eight scoping open houses in January and February 2012. The BLM used comments received during public scoping to help identify planning issues that would direct the formulation of alternatives and frame the scope of

analysis for the Draft LUP Amendments/EIS. The public scoping process was also used to introduce the public to preliminary planning criteria, which set limits on the scope of the Draft LUP Amendment/EIS. Major issues considered in the Draft LUP Amendments/EIS include Greater Sage-Grouse, energy and mineral development, lands and realty (including rights-of-way), wildfire, vegetation management (including invasive species and conifer encroachment), livestock grazing, recreation and travel management, and socioeconomics.

The Draft LUP Amendments/EIS evaluates five alternatives in detail, including a No Action Alternative (Alternative A) and four action alternatives (Alternatives B, C, D, and E). Alternative A would retain the management goals, objectives, and direction specified in the current LUPs for each resource or planning area. Alternative B includes conservation measures from the Sage-Grouse National Technical Team Report. Alternative C includes conservation measures that various conservation groups submitted to the BLM during the public scoping process and includes proposed Areas of Critical Environmental Concern (ACEC). Alternative D includes conservation measures developed by the BLM Utah in coordination with the local USFWS and the USFS Intermountain Region (Region 4). Alternative E is based on the State of Utah's *Conservation Plan for Greater Sage-Grouse in Utah* and the State of Wyoming's Governor's Executive Order 2011–05 and 2013–3.

The BLM and USFS have identified Alternative D as the preferred alternative. Identification of this alternative does not represent the final agency decision. The Proposed LUP Amendments/Final EIS may include objectives and actions contained in any of the alternatives analyzed in the Draft LUP Amendment/EIS.

Pursuant to 43 CFR 1610.7–2(b), this notice announces a concurrent public comment period on proposed Areas of Critical Environmental Concern (ACEC). As part of this planning process, fifteen ACECs are proposed in Alternative C. The proposed Greater-Sage-Grouse ACECs include:

- Three Corners/Browns Park—50,100 acres
- Diamond Mountain—110,300 acres
- Little Mountain/Halfway Hollow—60,700 acres
- Blue Mountain—18,900 acres
- Parker Mountain—201,800 acres
- Southern Mountain Valleys—105,300 acres
- Buckskin Valley—34,900 acres
- Black Mountains—256,800 acres
- Southern Great Basin—101,000 acres
- Sheep Creek Mountains—316,700 acres
- Ibapah—47,000 acres
- Box Elder/Grouse Creek—364,100 acres
- Rich County—166,600 acres

Under Alternative C, the following management prescriptions would apply to all Greater Sage-Grouse habitat, within the proposed ACECs: Closed to new mineral leasing; unsuitable for new surface coal mining; closed to new mineral material disposal; recommended for withdrawal from mineral entry; designated as a right-of-way (ROW) exclusion area; and, unavailable for livestock grazing. Additionally, within the proposed ACECs, the following management would apply:

- Prioritize withdrawal from mineral location and make existing claims within the proposed ACECs subject to validity patent examinations;
- Require Plans of Operations for any Notice-level locatable mineral development per 43 CFR 3809 regulations; and
- Prioritize the removal of un-needed infrastructure, including mining or ROW equipment, roads, range developments and fencing.

Please note that public comments and information submitted including names, street addresses and email addresses of persons who submit comments will be available for public review and disclosure at the above address during regular business hours (7:45 a.m.–4:30 p.m.), Monday through Friday, except holidays.

Before including an address, phone number, email address, or other personal identifying information in any comments, be aware that the entire comment—including personal identifying information—may be made publicly available at any time. Requests to withhold personal identifying information from public review, may be submitted, but the BLM cannot guarantee that it will be able to do so.

**Authority:** 40 CFR 1506.6, 40 CFR 1506.10, 43 CFR 1610.2.

**Jenna Whitlock,**

*Associate State Director.*

[FR Doc. 2013–26221 Filed 10–31–13; 8:45 am]

BILLING CODE 4310–DQ–P

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[LLNV930000. L11100000.DS0000. LXSISGST0000.13X; 13–08807; MO# 4500055596]

### Notice of Availability of the Nevada and Northeastern California Greater Sage-Grouse Draft Land Use Plan Amendments and Draft Environmental Impact Statement

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** In accordance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended, the Bureau of Land Management (BLM) and U.S. Forest Service (USFS) have prepared a Nevada and Northeastern California Sub-region Greater Sage-Grouse Draft Land Use Plan (LUP) Amendments and Draft Environmental Impact Statement (EIS) and by this notice is announcing the opening of the comment period.

**DATES:** To ensure that comments will be considered, the BLM and USFS must receive written comments on the Draft LUP Amendments/Draft EIS within 90 days following the date the Environmental Protection Agency publishes its notice of the Draft LUP Amendments/Draft EIS in the **Federal Register**. The BLM and USFS will announce future workshops and any other public participation activities at least 15 days in advance through public notices, media releases, and/or mailings.

**ADDRESSES:** You may submit written comments related to the Nevada and Northeastern California Sub-region Greater Sage-Grouse Draft LUP Amendments/Draft EIS by any of the following methods:

- *Web site: http://on.doi.gov/14ZD3Rb.*
- *Email: blm_nv_ca_sagegrouse_eis_comments@blm.gov.*
- *Mail:* BLM—Greater Sage Grouse EIS, Attn: Joe Tague, 1340 Financial Blvd. Reno, NV 89502.

Copies of the Nevada and Northeastern California Sub-region Greater Sage-Grouse Draft LUP Amendments/Draft EIS are available on the Web at: *http://www.blm.gov/nv/st/en/prog/wildlife/greater_sage-grouse.html.* Copies are also available at BLM and USFS offices throughout the subregion. For a list of these offices, please see **SUPPLEMENTARY INFORMATION** below.

**FOR FURTHER INFORMATION CONTACT:** Joe Tague, Project Manager, telephone 775–

861–6712; email *jtague@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** The Nevada and Northeastern California Sub-region Greater Sage-Grouse Draft LUP Amendments and Draft EIS addresses a range of alternatives focused on specific conservation measures across the range of the Greater Sage-Grouse (GRSG) in the sub-region. This Draft LUP Amendments/Draft EIS is one of 15 separate planning efforts that are being undertaken as part of the BLM's and USFS's National Greater Sage-Grouse Planning Strategy. The Draft LUP Amendments/Draft EIS proposes to amend the following Resource Management Plans (RMP)/Land Resource Management Plans (LRMP):

- Alturas RMP (2008)
- Eagle Lake RMP (2008)
- Surprise RMP (2008)
- Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area RMP (2004)
- Carson City Consolidated RMP (2001)
- Elko RMP (1987)
- Ely RMP (2008)
- Shoshone-Eureka RMP (1986)
- Tonopah RMP (1997)
- Wells RMP (1985)
- Winnemucca RMP (revision in progress)
- Humboldt National Forest LRMP (1986)
- Toiyabe National Forest LRMP (1986)

The planning area covers all or portions of 16 counties in Nevada and portions of 7 counties in northeastern California. Lands within the planning area include a mix of private, Federal and State lands. The decision area includes approximately 17 million acres of GRSG habitat administered by the BLM or USFS. The LUP amendments will be limited to making land use planning decisions specific to the conservation of Greater Sage-Grouse and their habitat. Through this land use planning process, the BLM and USFS will identify Greater Sage-Grouse preliminary priority management areas (PPMAs) and preliminary general management areas (PGMAs).

PPMAs are BLM-administered public lands or National Forest System lands identified as having the highest value to maintaining sustainable Greater Sage-Grouse populations. PGMAs are BLM-administered public lands or National Forest System lands that are not as biologically important as PPMAs. In addition to considering which lands will be managed as PPMAs and PGMAs, each alternative considers a unique set of objectives and management actions.

The formal public scoping process for the LUP Amendments/EIS began on December 9, 2011, with the publication of a Notice of Intent in the **Federal Register** (76 FR 77008), and ended on March 23, 2012. The BLM and USFS held seven scoping open houses in January 2012. The agencies used public scoping comments to help identify planning issues that directed the formulation of alternatives and framed the scope of analysis in the Draft LUP Amendments/Draft EIS.

Major issues considered in the Draft LUP Amendments/Draft EIS include special status species management (GRSG specifically), fire and invasive species, energy development, lands and realty (including transmission), and livestock grazing.

The Draft LUP Amendments/Draft EIS evaluates six alternatives in detail, including the No Action Alternative (Alternative A), and five action alternatives (Alternatives B, C, D, E and F). The BLM and the USFS identified Alternative D as the preferred alternative. Identification of this alternative, however, does not represent final agency direction, and the Proposed LUP Amendments/Final EIS may reflect changes or adjustments based on information received during public comment, from new information, or from changes in BLM or USFS policies or priorities. The Proposed LUP/Final EIS may include objectives and actions described in the other analyzed alternatives or otherwise within the spectrum of the analyzed alternatives.

Alternative A (No Action) continues current management direction under existing planning documents for all 11 field offices involved in the planning effort, plus the Humboldt and Toiyabe National Forests.

Alternative B analyzes management actions outlined in the National Technical Team's (NTT) Report. Conservation measures under Alternative B are focused primarily on priority habitat areas that have the highest conservation value to maintaining or increasing GRSG populations. These conservation measures include such protections as right-of-way (ROW) exclusions and a fluid mineral leasing closure.

Alternative C reduces or eliminates many of the uses on public lands, including livestock grazing. The alternative provides for a series of Areas of Critical Environmental Concern (ACECs) throughout the planning area for conservation of the Greater Sage-Grouse.

Alternative D, the Sub-regional alternative, incorporates local adjustments to the NTT Report which were developed with cooperating agencies. The purpose is to provide a balanced level of protection, restoration, enhancement and use of resources and services to meet ongoing programs and land uses. Conservation measures under Alternative D are focused on both Preliminary Priority Habitat (PPH) and Preliminary General Habitat (PGH) areas.

Alternative E (Nevada Governor's alternative) analyzes State-proposed conservation strategies. As part of their alternative submission, States provided the BLM with geographic information system data depicting their preferred PPH and PGH areas, conservation measures that should be applied to these areas, and rationale as to why their measures deviate from those outlined in the NTT Report.

Alternative F emphasizes the conservation actions that reduce many current land uses, such as mineral development, ROWs and other uses. The alternative provides for a series of ACECs throughout the planning area for conservation of the Greater Sage-Grouse.

Pursuant to 43 CFR 1610.7–2(b), this notice announces a concurrent public comment period on proposed ACECs. There are 32 ACECs proposed in Alternative C and 9 ACECs in Alternative F totaling approximately 13.6 million acres.

The GRSG habitat ACECs in Alternative C include: Black Rock, Buffalo/Skedaddle, Butte/Buck/White Pine, Clan Alpine, Cortez; Desatoya, Desert, East Valley, Fish Creek, Gollaher, Islands, Lincoln, Lone Willow, Massacre, Monitor, North Fork, O'Neil Basin, Pine Forest, Reese River, Ruby Valley, Santa Rosa, Schell/Antelope, Shoshone, Snake, South Fork, Spring/Snake Valley, Steptoe/Cave, Three Bar, Toiyabe, Tuscarora, Virginia and Vya, totaling approximately 12.2 million acres. The following management prescriptions would apply to these areas: Close to livestock grazing during lek, nesting and winter periods; prohibit industrial wind and wind farm construction in the ACEC or within 5–10 miles of the boundary; prohibit industrial solar projects within ACECs; recommend a mineral withdrawl from Preliminary Priority Sage-Grouse Management Areas (PPMA) and targeted restoration habitat; require features to enhance GRSG habitat security in existing ROW corridors and create

avoidance areas for new ROWs and communication and other towers; protect Native American traditional and cultural sites and uses; retain all public lands in ACECs in Federal ownership; prioritize acquisition of private lands in ACECs over easements; minimize herbicide use; close ACECs to oil, gas and geothermal leasing; allow locatable and nonlocatable mineral development in nonhabitat areas; prohibit use of helicopters within the ACEC to manage wild horse populations.

The GRSG ACECs in Alternative F include: Bates Mountain, Cortez range, Fish Creek Mountains, Little Fish Lake Valley, Monitor, Monitor Valley, Reese River, Roberts Mountain and Telegraph Mountain, totaling approximately 1.4 million acres. The following management prescriptions would apply to these areas: Close the areas to cross country vehicle travel; limit motorized and mechanized travel to designated routes and prohibit new routes within 4 miles of leks or within PPMAs; seasonally prohibit camping and nonmotorized recreation within 4 miles of active leks; allow only Special Recreation Permits that have demonstrated beneficial or neutral effects on PPMAs; include exclusion areas for new ROWs in PPMAs; include avoidance areas for new ROWs in PPMA and Preliminary General Management Areas (PGMA); retain PPMAs in the ACECs in Federal ownership; prioritize acquisition of private lands in ACECs over easements; allow for vegetative management to be consistent with composition and structure in achieving habitat objectives; allow for seasonal and timing restrictions in livetock grazing within ACECs; permanently retire grazing permits as opportunitiy arises; manage riparian areas and wetlands to meet proper functioning condition and maintain a component of perennial forbes with diverse species richness and productivity relative to site potential; prohibit new water developments for diversion from springs or seeps within PPMA and PGMAs; close to oil, gas, geothermal leasing within PPMA and within 4 miles of active leks; allow geophysical exploration outside PPMAs using helicopter-portable drilling methods only and in accordance with seasonal timing and other restrictions; not use Catergorical Exclusion to resolve Section 390 resource conflicts in PPMAs and design and implement fuels treatments with emphasis on protecting existing sagebrush ecosystem.

Copies of the Nevada and Northeastern California Sub-region Greater Sage-Grouse Draft LUP Amendments/Draft EIS are available at the following BLM and USFS offices throughout the subregion:

**Nevada**

- BLM State Office, 1340 Financial Blvd., Reno
- BLM Winnemucca District Office, 5100 E. Winnemucca Blvd., Winnemucca
- BLM Ely District Office, 702 North Industrial Way, HC 33 Box 33500, Ely
- BLM Elko District Office, 3900 E. Idaho Street, Elko
- BLM Carson City District Office, 5665 Morgan Mill Road, Carson City
- Battle Mountain District Office, 50 Bastian Road, Battle Mountain
- Humboldt-Toiyabe National Forest, 1200 Franklin Way, Sparks

**California**

- BLM State Office, 2800 Cottage Way, Suite W–1623, Sacramento
- Alturas Field Office, 708 W. 12th Street, Alturas
- Eagle Lake Field Office, 2950 Riverside Drive, Susanville
- Surprise Field Office, 602 Cressler Street, Cedarville

Please note that public comments and information submitted, including names, street addresses and email addresses of persons who submit comments, will be available for public review and disclosure at the above address during regular business hours (8 a.m. to 4 p.m.), Monday through Friday, except holidays.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**Authority:** 40 CFR 1506.6, 40 CFR 1506.10, 43 CFR 1610.2.

**Amy Lueders,**

*BLM Nevada State Director.*

[FR Doc. 2013–26261 Filed 10–31–13; 8:45 am]

BILLING CODE 4310–HC–P

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[LLID9310000 L16100000.DP0000. LXSISGST0000]

### Notice of Availability of the Idaho and Southwestern Montana Greater Sage-Grouse Draft Land Use Plan Amendments and Draft Environmental Impact Statement

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of Availability.

**SUMMARY:** In accordance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended, the Bureau of Land Management (BLM) and the Forest Service (USFS) have prepared a Draft Land Use Plan (LUP) Amendments and Draft Environmental Impact Statement (EIS) for managing Greater Sage-Grouse (GRSG) in the Idaho and Southwestern Montana sub-region, and by this notice are announcing the opening of the comment period.

**DATES:** To ensure that comments will be considered, the BLM and the USFS must receive written comments on the Draft LUP Amendments/Draft EIS within 90 days following the date the Environmental Protection Agency publishes notice of the Draft LUP Amendments/Draft EIS in the **Federal Register**. The BLM will announce future meetings or hearings and any other public participation activities at least 15 days in advance through public notices, media releases, and/or mailings.

**ADDRESSES:** You may submit comments related to the Idaho and Southwestern Montana Greater Sage-Grouse Draft LUP Amendments/Draft EIS by any of the following methods:

- *Email: blm_id_swmt_sagegrouse_eis@blm.gov.*
- *Fax: 208–373–3805.*
- *Mail:* BLM—Greater Sage-grouse EIS, 1387 S. Vinnell Way, Boise ID 83709.

Copies of the Idaho and Southwestern Montana Greater Sage-Grouse Draft LUP Amendments/Draft EIS are available at the BLM Idaho State Office, 1387 S. Vinnell Way, Boise ID 83709, or online at: *http://www.blm.gov/id/st/en/prog/nepa_register/sage-grouse_rmp_revision.html.*

**FOR FURTHER INFORMATION CONTACT:** Brent Ralston, the Idaho and Southwestern Montana Sub Regional Project Lead, telephone 208–373–3812; see address above; email *bralston@blm.gov.* Persons who use a

telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** The BLM and the Forest Service prepared the Idaho and Southwestern Montana Greater Sage-Grouse Draft LUP Amendments and Draft EIS to address a range of alternatives focused on specific conservation measures across the Idaho and Southwestern Montana range of the GRSG. This Draft LUP Amendments/Draft EIS is one of 15 separate planning efforts that are being undertaken as part of the BLM and Forest Service National Greater Sage-Grouse Planning Strategy. The Draft LUP Amendments/Draft EIS proposes to amend the LUPs for field offices on BLM and National Forest lands within the Idaho and southwest Montana sub-region boundaries. The current management decisions for resources are described in the following resource management plans (RMPs)/land resource management plans (LRMPs):

Bruneau Management Framework Plan (MFP)
Burley FO, ID 1985 Cassia Resource Management Plan (RMP)
Burley FO, ID 1982 Twin Falls MFP
Challis FO, ID 1999 Challis RMP
Dillon FO, MT 2006 Dillon RMP
Four Rivers FO, ID 1988 Cascade RMP
Four Rivers FO, ID 1983 Kuna RMP
Four Rivers FO, ID 2008 Snake River Birds of Prey National Conservation Area (NCA) RMP
Jarbidge FO, ID 1987 Jarbidge RMP
Owyhee FO, ID 1999 Owyhee RMP
Pocatello FO, ID 2012 Pocatello RMP
Salmon FO, ID 1987 Lemhi RMP
Shoshone FO, ID 2006 Craters of the Moon National Monument RMP
Shoshone FO, ID 1975 Magic MFP
Shoshone FO, ID 1981 Sun Valley MFP
Shoshone Field Office (FO), ID 1980 Bennett Hills/Timmerman Hills MFP
Shoshone and Burley FOs, ID 1985 Monument RMP
Upper Snake FO, ID 1981 Little Lost-Birch Creek MFP
Upper Snake FO, ID 1985 Medicine Lodge RMP
Upper Snake FO, ID 1981 Big Desert MFP
Upper Snake FO, ID 1983 Big Lost MFP
Forest Service
Beaverhead-Deerlodge NF, MT 2009 Beaverhead-Deerlodge National Forest (NF) Plan
Boise NF, ID 2003 Boise NF Plan
Caribou-Targhee NF, ID 2002 Curlew National Grassland Management Plan
Caribou-Targhee NF, ID 2003 Caribou NF Revised Forest Plan
Caribou-Targhee NF, ID 1997 Targhee NF Plan
Salmon-Challis NF, ID 1987 Challis NF Plan
Salmon-Challis NF, ID 1988 Salmon NF Plan
Sawtooth NF, ID, UT 2003 Sawtooth NF Revised Forest Plan

The planning area includes approximately 49.1 million acres of BLM, National Park Service, USFS, U.S. Bureau of Reclamation, State, local, and private lands located in Idaho and Southwestern Montana, in 34 counties: Ada, Adams, Bear Lake, Bingham, Blaine, Bonneville, Butte, Camas, Caribou, Cassia, Clark, Custer, Elmore, Fremont, Gem, Gooding, Jefferson, Jerome, Lemhi, Lincoln, Madison, Minidoka, Oneida Owyhee, Payette, Power, Twin Falls, Washington, Montana (MT), Beaverhead Deer Lodge (MT), Gallatin (MT), Madison (MT), Silver Bow (MT), and Box Elder (UT). Within the decision area, the BLM and the Forest Service administer approximately 12.7 million acres of public lands and 17.4 million acres of National Forest System Land, providing approximately 9.3 and 1.9 million acres of GRSG habitat, respectively. Surface management decisions made as a result of this Draft LUP Amendments/Draft EIS will apply only to BLM and USFS-administered lands in the decision area. The decision area for most program decisions is defined as those BLM and USFS-administered lands and Federal mineral estate within two categories of habitat:

- Preliminary Priority Habitat (PPH)—Areas identified as having the highest conservation value to maintaining sustainable GRSG populations; include breeding, late brood-rearing and winter concentration areas.
- Preliminary General Habitat (PGH)—Areas of seasonal or year-round habitat outside of priority habitat.

In addition, one alternative considered identifies off-highway vehicle decisions for all Idaho BLM-administered lands within the planning area.

The formal public scoping process for the LUP Amendments/EIS began on December 9, 2011, with the publication of a Notice of Intent in the **Federal Register** (76 FR 77008), and ended on March 23, 2012. The BLM held six scoping open houses in January and February 2012. The BLM used public scoping comments to help identify planning issues that directed the formulation of alternatives and framed the scope of analysis in the Draft LUP Amendments/Draft EIS. The scoping process was also used to introduce the public to preliminary planning criteria, which set limits on the scope of the Draft LUP Amendments/Draft EIS.

Major issues considered in the Draft LUP Amendments/Draft EIS include special status species management (GRSG specifically), wildfire, invasive species, infrastructure and human disturbance.

The Draft LUP Amendments/Draft EIS evaluates six alternatives in detail, including the No Action Alternative (Alternative A) and five action alternatives (Alternatives B, C, D, E and F). Alternatives D and E have been identified as co-Preferred Alternatives for the purposes of public comment and review. Identification of these alternatives, however, does not represent final agency direction, and the Proposed LUP Amendments/Final EIS may reflect changes or adjustments from information received during public comment, from new information, or from changes in BLM policies or priorities. The Proposed LUP Amendments/Final EIS may include objectives and actions described in the other analyzed alternatives as well.

Alternative A would retain the current management goals, objectives, and direction specified in the current LUPs for each field office and National Forest. Alternative B includes conservation measures from the Sage-Grouse National Technical Team Report. Alternative C includes conservation measures submitted to the BLM by conservation groups. Alternative D includes the Idaho and Southwestern Montana subregional alternative formulated by the BLM and USFS. Alternative E was taken from alternatives developed by the Idaho and Utah Governor's Offices. Alternative F includes measures submitted to the BLM by various conservation groups.

Areas of Critical Environmental Concern (ACECs) and USFS Zoological Areas are among the special designations under consideration within the range of alternatives. ACECs have been proposed in Alternatives C and F to protect GRSG habitat. There are 53 existing ACECs within the planning area containing approximately 325,000 acres of GRSG habitat. None of these ACECs have been identified as having Greater Sage-Grouse as a relevant and important value. The existing ACEC designations would be carried forward in alternatives B, D and E without change.

Pursuant to 43 CFR 1610.7–2(b), this notice announces a concurrent public comment period on proposed ACECs.

Alternative C includes a proposal for four new ACECs encompassing approximately 4.2 million acres. Alternative F includes two proposals for new ACECs: (1) 17 new ACECs and 12 Zoological Areas encompassing 11.1 million acres; and (2) 18 new ACECs and 12 USFS Zoological Areas encompassing 2.5 million acres. These proposed ACECs/Zoological Areas would include the following resource use limitations if they were formally designated:

Closed to fluid mineral leasing; designated as a right-of-way exclusion area; closed to livestock grazing; allow vegetation treatments only for the benefit of GRSG; and recommended for withdrawal from mineral entry.

Pertinent information regarding all proposed ACECs including values, resource use limitations, and acreages are available at the following Web site:

*http://www.blm.gov/id/st/en/prog/nepa_register/sage-grouse_rmp_revision.html.* There are no new ACECs proposed within either of the co-Preferred Alternatives. Please note that public comments and information submitted including names, street addresses and email addresses of persons who submit comments will be available for public review and disclosure at the above address during regular business hours (8 a.m. to 4 p.m.), Monday through Friday, except holidays.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**Authority:** 40 CFR 1506.6, 40 CFR 1506.10, 43 CFR 1610.2.

**Timothy M. Murphy,**

*Acting BLM Idaho State Director.*

**Jamie E. Connell,**

*BLM Montana State Director.*

[FR Doc. 2013–26260 Filed 10–31–13; 8:45 a.m.]

**BILLING CODE 4310–GG–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[LLCO956000 L14200000.BJ0000]**

### Notice of Filing of Plats of Survey; Colorado

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of Filing of Plats of Survey; Colorado.

**SUMMARY:** On Thursday, October 6, 2011, the Bureau of Land Management (BLM) Colorado State Office, published a Notice of Stay of Filing of Plats, in the **Federal Register** (76 FR 62088) to inform the public of a stay on the proposed filing of the dependent resurvey and surveys in Township 9 South, Range 93 West, Sixth Principal Meridian, Colorado, accepted on August 5, 2010, pending consideration of the protest and/or appeal that was filed. With the settlement agreement of September 26, 2013, the BLM Colorado State Office is publishing this notice to inform the public of the intent to officially file the survey plat and afford a proper period of time to protest this action prior to the plat filing. During this time, the plat will be available for review in the BLM Colorado State Office.

**DATES:** Unless there are protests of this action, the filing of the plat described in this notice will happen on December 2, 2013.

**ADDRESSES:** BLM Colorado State Office, Cadastral Survey, 2850 Youngfield Street, Lakewood, CO 80215–7093.

**FOR FURTHER INFORMATION CONTACT:** Randy Bloom, Chief Cadastral Surveyor for Colorado, (303) 239–3856.

Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, seven days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**Randy Bloom,**

*Chief Cadastral Surveyor for Colorado.*

[FR Doc. 2013–26060 Filed 10–31–13; 8:45 am]

**BILLING CODE 4310–JB–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Ocean Energy Management

**[MMAA104000]**

### Request for Comments on the Annual Progress Report on the Outer Continental Shelf (OCS) Oil and Gas Leasing Program 2012–2017

**AGENCY:** Bureau of Ocean Energy Management (BOEM), Interior.

**ACTION:** Request for comments.

**SUMMARY:** BOEM requests comments on the Annual Progress Report (Report) on the OCS Oil and Gas Leasing Program 2012–2017 (Five Year Program). The Annual Progress Report is available for review at: *www.boem.gov/Five-Year-Program-Annual-Progress-Report/.* Information on the Five Year Program is available online at *http://www.boem.gov/Oil-and-Gas-Energy-Program/Leasing/Five-Year-Program/2012–2017/Five-Year-Program.aspx.* The Secretary of the Interior (Secretary) published the Five Year Program in June 2012, and the program became final on August 27, 2012, after the required 60-day congressional review period. Section 18(e) of the OCS Lands Act (Act) states that ''the Secretary shall review the leasing program approved under this section at least once each year. He [or she] may revise and reapprove such program, at any time, and such revision and reapproval, except in the case of a revision which is not significant, shall be in the same manner as originally developed.'' Historically, the annual review has been an internal process in which BOEM reports to the Secretary any information or events that might result in consideration of a revision to the Program. However, in the decision document for the Five Year Program (available by clicking on ''Proposed Final Program Decision Document'' at the above web address), the Department of the Interior stated its commitment to ''publish an annual progress report on the Five Year Program that includes an opportunity for stakeholders and the public to comment on the program's implementation.'' Pursuant to this commitment, the Annual Progress Report (Report) provides the public an overview of the activities that have occurred during the previous year. The Report includes the following information:

- Statistics of sales that have occurred in the previous year, including the number and location of lease blocks and the dollars collected on high bids;
- a tracking table of all relevant deferrals and mitigations;

- a summary of completed and ongoing safety and environmental studies;
- regulatory updates;
- a discussion of significant new drilling activities and seismic data collection;
- a summary of any significant incidents; and
- other relevant information.

After the comment period, BOEM will submit the Report, with a summary of comments received in response to this notice, to the Secretary.

There is no specified format for comments. However, BOEM requests that respondents focus on new information that has come to light since final approval of the Five Year Program in August 2012, and information that was not provided during previous comment periods related to the development of the Five Year Program.

**DATES:** Please submit comments and information to BOEM no later than December 2, 2013.

*Public Comment Procedure:* BOEM will accept comments submitted by mail or through its Internet submission system. Please submit your comments using only one of these methods, and include full names and addresses. Comments submitted by other means may not be considered. BOEM will not consider anonymous comments. BOEM will make available for inspection in their entirety all comments by organizations and businesses or by individuals identifying themselves as representatives of organizations and businesses.

BOEM's practice is to make comments submitted, including the names and home addresses of respondents, available for public review. An individual may ask that BOEM withhold his or her name, home address, or both from the public record, and BOEM will honor such a request to the extent allowed by law. If you wish BOEM to withhold such information, you must so state prominently at the beginning of your submission.

**ADDRESSES:** Mail comments to: Kelly Hammerle, Five Year Program Manager, Bureau of Ocean Energy Management (MS–HM 3120), Room 3120, 381 Elden Street, Herndon, Virginia 20170. Please label your comments and the packaging in which they are submitted as ''Information in response to the Annual Progress Report on the Five Year Program 2012–2017.'' If you submit any privileged or proprietary information to be treated as confidential, please mark the envelope ''Contains Confidential Information.''

*Internet:* Federal eRulemaking Portal: *http://www.regulations.gov.* Under the tab ''More Search Options,'' click ''Advanced Docket Search,'' then select ''Bureau of Ocean Energy Management'' from the agency drop-down menu, then click the submit button. In the Docket ID column, select BOEM–2013–0046 to submit public comments and to view related materials available for the Five Year Program. Information on using the Federal eRulemaking Portal, including instructions for accessing documents, submitting comments, and viewing the docket after the comment period closes, is available through the site's ''User Tips'' link.

**FOR FURTHER INFORMATION CONTACT:** Kelly Hammerle, Five Year Program Manager, at 703–787–1215.

Dated: October 28, 2013.

**Tommy P. Beaudreau,**

*Director, Bureau of Ocean Energy Management.*

[FR Doc. 2013–26185 Filed 10–31–13; 8:45 am]

**BILLING CODE 4310–MR–P**

## INTERNATIONAL TRADE COMMISSION

**[Investigation Nos. 731–TA–986–987 (Second Review)]**

## Ferrovanadium From China and South Africa; Institution of Five-Year Reviews

**AGENCY:** United States International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty orders on ferrovanadium from China and South Africa would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is December 2, 2013. Comments on the adequacy of responses may be filed with the Commission by January 14, 2014. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

**DATES:** *Effective:* November 1, 2013.

**FOR FURTHER INFORMATION CONTACT:** Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

**SUPPLEMENTARY INFORMATION:**

*Background.*—On January 28, 2003, the Department of Commerce issued antidumping duty orders on imports of ferrovanadium from China and South Africa (68 FR 4168 and 4169). Following the first five-year reviews by Commerce and the Commission, effective December 19, 2008, Commerce issued a continuation of the antidumping duty orders on imports of ferrovanadium from China and South Africa (73 FR 77609). The Commission is now conducting second reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

*Definitions.*—The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The *Subject Countries* in these reviews are China and South Africa.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 14–5–299, expiration date June 30, 2014. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

characteristics and uses with, the *Subject Merchandise.* In its original determinations and its first full five-year review determinations, the Commission found a single *Domestic Like Product* consisting of ferrovanadium of all grades coextensive with Commerce's scope.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determinations, the Commission defined a single *Domestic Industry* consisting of the U.S. producers of ferrovanadium, i.e., Bear Metallurgical Co. (Bear), Shieldalloy Metallurgical Corp. (now known as Metvan), and International Specialties Alloys. In its first full five-year review determinations, the Commission defined the *Domestic Industry* as all U.S. producers of the *Domestic Like Product,* namely Bear and Metvan. The Commission did not include tollees U.S. Vanadium Corp. (now known as Stratcor) and Gulf Chemical & Metallurgical Corp. in the *Domestic Industry* in its original determinations or first full five-year review determinations.

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

*Participation in the reviews and public service list.*—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register.** The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation. The Commission's designated agency ethics official has advised that a five-year review is not considered the ''same particular matter'' as the corresponding underlying original investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 73 FR 24609 (May 5, 2008). This advice was developed in consultation with the Office of Government Ethics. Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

*Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.*—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register.** Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

*Certification.*—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

*Written submissions.*—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is December 2, 2013. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is January 14, 2014. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. Regarding electronic filing requirements under the Commission's rules, see also the Commission's *Handbook on E-Filing,* available on the Commission's Web site at *http://edis.usitc.gov.* Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

*Inability to provide requested information.*—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act (19 U.S.C. 1677e(b)) in making its determinations in the reviews.

*Information To Be Provided in Response To This Notice of Institution:* If you are a domestic producer, union/worker group, or trade/business association; import/export *Subject Merchandise* from more than one *Subject Country;* or produce *Subject Merchandise* in more than one *Subject Country,* you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent *Subject Country.* As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union

or worker group, a U.S. importer of the *Subject Merchandise,* a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty orders on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in each *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries after 2007.

(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 2012, except as noted (report quantity data in pounds of contained vanadium 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(ies),* provide the following information on your firm's(s') operations on that product during calendar year 2012 (report quantity data in pounds of contained vanadium and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of *Subject Merchandise* imported from each *Subject Country;* and

(c) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from each *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(ies),* provide the following information on your firm's(s') operations on that product during calendar year 2012 (report quantity data in pounds of contained vanadium and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in each *Subject Country* accounted for by your firm's(s') production;

(b) capacity (quantity) of your firm(s) to produce the *Subject Merchandise* in each *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 each *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 each *Subject Country* after 2007, 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 each *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:** These reviews are being conducted under authority of Title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: October 29, 2013.

**Lisa R. Barton,**

*Acting Secretary to the Commission.*

[FR Doc. 2013–26104 Filed 10–31–13; 8:45 am]

**BILLING CODE 7020–02–P**

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 731–TA–752 (Third Review)]**

## Crawfish Tail Meat From China Institution of a Five-Year Review

**AGENCY:** United States International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (''the Act'') to determine whether revocation of the antidumping duty order on crawfish tail meat from China would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is December 2, 2013. Comments on the adequacy of responses may be filed with the Commission by January 14, 2014. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

**DATES:** *Effective:* November 1, 2013.

**FOR FURTHER INFORMATION CONTACT:** Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

**SUPPLEMENTARY INFORMATION:**

*Background.*— On September 15, 1997, the Department of Commerce issued an antidumping duty order on imports of crawfish tail meat from China (62 FR 48218). Following the first five-year reviews by Commerce and the Commission, effective August 13, 2003, Commerce issued a continuation of the antidumping duty order on imports of crawfish tail meat from China (68 FR 48340). Following the second five-year reviews by Commerce and the Commission, effective December 11, 2008, Commerce issued a continuation of the antidumping duty order on imports of crawfish tail meat from China (73 FR 75392). The Commission is now conducting a third review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

*Definitions.*—The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The *Subject Country* in this review is China.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determination, first full five-year review determination, and second expedited five-year review determination, the Commission defined the *Domestic Like Product* as crawfish tail meat, 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, first full five-year review determination, and second expedited five-year review determination, the Commission defined the *Domestic Industry* to encompass all domestic producers of crawfish tail meat, including processors but not the farmers and fishermen who harvest live crawfish.

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

*Participation in the review and public service list.*—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation. The Commission's designated agency ethics official has advised that a five-year review is not considered the ''same particular matter'' as the corresponding underlying original investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 73 FR 24609 (May 5, 2008). This advice was developed in consultation with the Office of Government Ethics. Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation was pending when they were Commission employees. For

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 14–5–298, expiration date June 30, 2014. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

further ethics advice on this matter, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

*Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.*—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

*Certification.*—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

*Written submissions.*—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is December 2, 2013. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is January 14, 2014. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. Regarding electronic filing requirements under the Commission's rules, see also the Commission's *Handbook on E-Filing,* available on the Commission's Web site at *http://edis.usitc.gov.* Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

*Inability to provide requested information.*—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act (19 U.S.C. 1677e(b)) in making its determination in the review.

*Information To Be Provided in Response To This Notice of Institution:* As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandise,* a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in the *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries after 2007.

(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 2012, except as noted (report quantity data in pounds 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 2012 (report quantity data in pounds and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of *Subject Merchandise* imported from the *Subject Country;* and

(c) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from the *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2012 (report quantity data in pounds and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in the *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm(s) to produce the *Subject Merchandise* in the *Subject Country* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in the *Subject Country* after 2007, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in the *Subject Country,* and such merchandise from other countries.

(13) (OPTIONAL) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

**Authority:** This review is being conducted under authority of Title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: October 29, 2013.

**Lisa R. Barton,**

*Acting Secretary to the Commission.*

[FR Doc. 2013–26105 Filed 10–31–13; 8:45 am]

**BILLING CODE 7020–02–P**

## INTERNATIONAL TRADE COMMISSION

**[Investigation Nos. 731–TA–1140–1142 (Review)]**

## Uncovered Innerspring Units From China, South Africa, and Vietnam Institution of Five-Year Reviews

**AGENCY:** United States International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty orders on uncovered innerspring units from China, South Africa, and Vietnam would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is December 2, 2013. Comments on the adequacy of responses may be filed with the Commission by January 14, 2014. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

**DATES:** *: Effective:* November 1, 2013.

**FOR FURTHER INFORMATION CONTACT:** Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for these reviews may be viewed on the

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 14–5–300, expiration date June 30, 2014. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

**SUPPLEMENTARY INFORMATION:**

*Background.*—On December 11, 2008, the Department of Commerce issued antidumping duty orders on imports of uncovered innerspring units from South Africa and Vietnam (73 FR 75390 and 75391). On February 19, 2009, the Department of Commerce issued an antidumping duty order on imports of uncovered innerspring units from China (74 FR 7661). The Commission is conducting reviews to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

*Definitions.*—The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The *Subject Countries* in these reviews are China, South Africa, and Vietnam.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determinations, the Commission defined a single *Domestic Like Product* consisting of uncovered innerspring units, coextensive with Commerce's scope.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determinations, the Commission defined the *Domestic Industry* as all domestic producers of uncovered innerspring units.

(5) The *Order Dates* are the dates that the antidumping duty orders under review became effective. In these reviews, the *Order Dates* are December 11, 2008 (South Africa and Vietnam), and February 19, 2009 (China).

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

*Participation in the reviews and public service list.*—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation. The Commission's designated agency ethics official has advised that a five-year review is not considered the ''same particular matter'' as the corresponding underlying original investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 73 FR 24609 (May 5, 2008). This advice was developed in consultation with the Office of Government Ethics. Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

*Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.*—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

*Certification.*—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

*Written submissions.*—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is December 2, 2013. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is January 14, 2014. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. Regarding electronic filing requirements under the Commission's rules, see also the Commission's *Handbook on E-Filing,* available on the Commission's Web site at *http://edis.usitc.gov.* Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

*Inability to provide requested information.*—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative

forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act (19 U.S.C. 1677e(b)) in making its determinations in the reviews.

*Information to be provided in response to this notice of institution:* If you are a domestic producer, union/worker group, or trade/business association; import/export *Subject Merchandise* from more than one *Subject Country;* or produce *Subject Merchandise* in more than one *Subject Country,* you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent *Subject Country.* As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandise,* a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty orders on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in each *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries since the *Order Dates.*

(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 2012, 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(ies),* provide the following information on your firm's(s') operations on that product during calendar year 2012 (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 duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of *Subject Merchandise* imported from each *Subject Country;* and

(c) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from each *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(ies),* provide the following information on your firm's(s') operations on that product during calendar year 2012 (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 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 each *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm(s) to produce the *Subject Merchandise* in each *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 each *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 each *Subject Country* since the *Order Dates,* 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 each *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:* These reviews are being conducted under authority of Title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: October 29, 2013.

**Lisa R. Barton,**

*Acting Secretary to the Commission.*

[FR Doc. 2013–26103 Filed 10–31–13; 8:45 am]

**BILLING CODE 7020–02–P**

## INTERNATIONAL TRADE COMMISSION

**[USITC SE–13–026]**

### Sunshine Act Meeting Notice

**AGENCY HOLDING THE MEETING:** United States International Trade Commission.

**TIME AND DATE:** November 5, 2013 at 11:00 a.m.

**PLACE:** Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

**STATUS:** Open to the public.

**MATTERS TO BE CONSIDERED:**

1. Agendas for future meetings: None
2. Minutes
3. Ratification List
4. Vote in Inv. Nos. 701–TA–490 and 731–TA–1204 (Final) (Hardwood Plywood from China). The Commission is currently scheduled to complete and file its determinations on or before November 25, 2013; Commissioners' opinions will be issued on November 25, 2013.
5. Outstanding action jackets: None

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: October 29, 2013.

**William R. Bishop,**

*Supervisory Hearings and Information Officer.*

[FR Doc. 2013–26275 Filed 10–30–13; 11:15 am]

**BILLING CODE 7020–02–P**

## DEPARTMENT OF JUSTICE

**[OMB Number 1122–NEW]**

### Agency Information Collection Activities; New Collection: Certification of Compliance With the Confidentiality and Privacy Provisions of the Violence Against Women Act, as Amended

**ACTION:** 30-Day Notice.

The Department of Justice, Office on Violence Against Women (OVW) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 78, page 54275 on September 3, 2013, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until December 2, 2013. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–7285.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(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:* New collection.

(2) *Title of the Form/Collection:* Certification of Compliance with the Confidentiality and Privacy Provisions of the Violence Against Women Act, as Amended.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: 1122–XXXX. U.S. Department of Justice, Office on Violence Against Women.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

*Primary:* The affected public includes applicants to OVW grant programs authorized under the Violence Against Women Act of 1994 and reauthorized and amended by the Violence Against Women Act of 2000, the Violence Against Women Act of 2005 and the Violence Against Women Act of 2013. These include States, territories, Tribes or units of local government; State, territorial, tribal or unit of local governmental entities; institutions of higher education including colleges and universities; tribal organizations; Federal, State, tribal, territorial or local courts or court-based programs; State sexual assault coalitions, State domestic violence coalitions; territorial domestic violence or sexual assault coalitions;

tribal coalition; tribal organizations; community-based organizations and non-profit, nongovernmental organizations.

Under section 40002(b)(2) of the Violence Against Women Act, as amended (42 U.S.C. 13925(b)(2)), grantees and subgrantees with funding from OVW are required to meet the specific terms with regard to nondisclosure of confidential or private information and to document their compliance. By signature on certification form, applicants for grants from OVW are agreeing that, if awarded funds, they will comply with this provision, and will mandate that subgrantees, if any, comply with this provision, and will create and maintain documentation of compliance, such as policies and procedures for release of victim information, and will mandate that subgrantees, if any, will do so as well.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that information will be collect annually from the approximately 1800 respondents (applicants to the OVW grant programs) less than one hour to complete a Certification of Compliance with the Confidentiality and Privacy Provisions of the Violence Against Women Act, as Amended.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total annual hour burden to complete the Certification is less than 1800 hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 1407B, Washington, DC 20530.

**Jerri Murray,**

*Department Clearance Officer, U.S. Department of Justice.*

[FR Doc. 2013–26109 Filed 10–31–13; 8:45 am]

**BILLING CODE 4410–FX–P**

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Proposed Consent Decree Under the Clean Air Act

On October 28, 2013, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Southern District of West Virginia in the lawsuit captioned *United States and State of West Virginia* v. *E. I. du Pont de Nemours and Company,* Civil Action No. 6:13–cv–27030.

E. I. du Pont de Nemours and Company (''DuPont'') owns and operates a chemical manufacturing facility located in Washington, West Virginia (''Washington Works Facility''). In the Complaint, filed on October 28, 2013, on behalf of the Environmental Protection Agency (''EPA''), the United States and the State of West Virginia, on behalf of the West Virginia Department of Environmental Protection, allege that DuPont violated the Clean Air Act by failing to comply with the leak detection and repair regulations (''LDAR'') established at 40 CFR Part 63. The Complaint also alleges the DuPont violated the LDAR requirements contained in its Clean Air Act Title V permit and the LDAR standards for hazardous air pollutants promulgated in the West Virginia Code of State Rules, Title 45, Section 34.

The proposed Consent Decree, lodged with the Court on October 28, 2013, resolves the allegations in the Complaint and requires DuPont to implement injunctive relief at its Washington Works Facility. The terms of the Consent Decree require DuPont to perform a preliminary audit of its LDAR equipment, to prepare a comprehensive training program and train personnel in LDAR compliance, and to implement an enhanced LDAR program that includes requirements above and beyond those of the applicable LDAR regulations. The Consent Decree also requires DuPont to pay a civil penalty of $800,000, divided evenly between the United States and West Virginia. The amount of the civil penalty is based on the EPA Clean Air Act Stationary Source Civil Penalty Policy.

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 and State of West Virginia* v. *E. I. du Pont de Nemours and Company,* D.J. Ref. No. 90–5–2–1–09610. 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.usdoj.gov/enrd/Consent_Decrees.html.* 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 $13.25 (25 cents per page reproduction cost) without the Consent Decree attachments or $27.00 with the attachments, payable to the United States Treasury.

**Robert Brook,**

*Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 2013–26117 Filed 10–31–13; 8:45 am]

**BILLING CODE 4410–15–P**

## NATIONAL CREDIT UNION ADMINISTRATION

### Sunshine Act Meeting

**TIME AND DATE:** 1:30 p.m., Friday, November 1, 2013.

**PLACE:** Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

**STATUS:** Closed.

Pursuant to the provisions of the ''Government in Sunshine Act,'' notice is hereby given that the NCUA Board unanimously determined that agency business required holding a closed meeting with less than seven days' notice to the public, and that no earlier notice of the meeting was possible.

**MATTERS TO BE CONSIDERED:**

1. Consideration of Supervisory Activities. Closed pursuant to Exemptions (5), (7), (8) and (9)(ii).

**FOR FURTHER INFORMATION CONTACT:** Gerard Poliquin, Secretary of the Board, Telephone: 703–518–6304.

**Gerard Poliquin,**

*Secretary of the Board.*

[FR Doc. 2013–26367 Filed 10–30–13; 4:15 pm]

**BILLING CODE 7535–01–P**

## NATIONAL SCIENCE FOUNDATION

### Request for Comments on the Program Solicitation for the Advanced Technological Education Program (ATE)

**AGENCY:** National Science Foundation.

**ACTION:** Request for Comments.

**SUMMARY:** This notice announces the intent of the Advanced Technological Education (ATE) Program at the National Science Foundation (NSF) to change some emphases in the program's solicitation.

As part of this information collection effort, the Division of Undergraduate Education in the Directorate for Education and Human Resources is requesting comments on possible changes to the current program solicitation, that could include: (1) Adding specific emerging areas to expand the pool of skilled technicians in strategic advanced-technology fields; (2) increasing focus on or highlighting gaps in the program solicitation that need to be addressed; (3) developing new types of partnerships (e.g., NIST Manufacturing Extension Partnerships, partnerships with Discipline-Based Educational Researchers, partnerships with learning scientists, educational researchers and evaluators); and (4) adding Research & Development (R&D) on innovations in curricular, learning materials, tools, assessments, and faculty and student professional development.

**DATES:** Send your written comments by December 2, 2013.

**ADDRESSES:** Send your written comments to Advanced Technological Education Program, Division of Undergraduate Education, National Science Foundation, 4201 Wilson Blvd., Room 835, Arlington, VA 22230. Send email comments to *ate-comments@nsf.gov* by December 2, 2013.

**FOR FURTHER INFORMATION CONTACT:** *ate-additional-info@nsf.gov*by December 2, 2013.

**SUPPLEMENTARY INFORMATION:**

## A. Background

The National Science Foundation (NSF) Advanced Technological Education (ATE) program was established by the Scientific and Advanced Technology Act of 1992 to utilize the resources of the Nation's two-year associate-degree granting colleges. With an emphasis on two-year institutions, the Advanced Technological Education (ATE) program focuses on the education of technicians for the high technology fields that drive our nation's economy. The program involves partnerships between academic institutions and industry to promote improvement in the education of science and engineering technicians at the undergraduate and secondary school levels. The ATE program supports curriculum development; professional development of college faculty and secondary school teachers; career pathways to two-year colleges from secondary schools and from two-year colleges to four-year institutions; career pathways that lead to entry-level technician positions in STEM that require less than a baccalaureate degree, and other activities The program also invites proposals focusing on research to advance practice and the knowledge base related to technician education.

Program goals are to

1. Educate highly qualified science and engineering technicians to meet workforce demands in strategic advanced technology fields;

2. Improve the technical skills and general science, technology, engineering, and mathematics (STEM) preparation of these technicians and the educators who prepare them at the secondary (grades 7–12) and undergraduate levels; and

3. Increase the capacity of institutions to effectively partner with industry to develop and implement advanced technician education programs that supply the workforce for industry and enhance the economic vitality of the region and the Nation.

ATE is a workforce program that is located in the Division of Undergraduate Education (DUE) in the Directorate for Education and Human Resources.

The National Science Foundation (NSF) is an independent federal agency established by Congress in 1950 ''to promote the progress of science; to advance the national health, prosperity, and welfare; to secure the national defense; and for other purposes'' (*http://www.nsf.gov/about/*)

The NSF Directorate for Education and Human Resources (EHR) ''makes investments toward a vision of a healthy and vital national science, technology, engineering, and mathematics (STEM) enterprise. The Directorate works toward that vision through its mission, which is to support the preparation of a diverse, globally competent STEM workforce and a STEM-literate citizenry through investments in research and development on STEM education and learning. Opportunities to learn STEM effectively—for people of all ages, from all corners of the Nation, and in many venues (e.g., classrooms and living rooms; science centers and virtual centers)—are the foundation for that scientifically literate society and strong scientific workforce. These, in turn, are the basis for keeping our Nation globally competitive, prosperous, and secure. EHR provides the focus for NSF's investments to advance STEM learning, scientific literacy, and a globally competitive science and engineering workforce'' (*http://www.nsf.gov/about/budget/fy2014/pdf/25_fy2014.pdf*).

## B. Request for Comments

The Advanced Technological Education (ATE) Program is seeking information from the public and program stakeholders. Governmental policy makers, academic researchers, evaluators, industry, professional societies, and other interested parties are encouraged to participate by submitting comments. These comments will be used to inform changes to the solicitation and may be made publicly available. The ATE Program will not respond to individual comments. Official address, contact, and due date for submitting comments are stated above.

Dated: October 29, 2013.

**Suzanne H. Plimpton,**

*Reports Clearance Officer, National Science Foundation.*

[FR Doc. 2013–26099 Filed 10–31–13; 8:45 am]

**BILLING CODE 7555–01–P**

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# NEIGHBORHOOD REINVESTMENT CORPORATION

## Sunshine Act Meeting; Finance, Budget & Program Committee Meeting of the Board of Directors

**TIME & DATE:** 2:00 p.m., Thursday, November 7, 2013.

**PLACE:** Telephonic Meeting.

**STATUS:** Open.

**CONTACT PERSON:** Jeffrey Bryson, General Counsel/Secretary, (202) 760–4101; *jbryson@nw.org*.

**AGENDA:**

I. Call to Order

II. Non-Network Grant Policy

III. Lease Renewals

IV. NFMC Timeline—Round 8

V. Budget Update

VI. Organization Underwriting & Grants to Network

VII. A. Financial Report

B. Quarterly Program Reports

C. Corporate Scorecard Report

D. HUD Counseling Rule

E. Grants Report

VIII. Adjournment

**Jeffrey T. Bryson,**

*General Counsel.*

[FR Doc. 2013–25930 Filed 10–30–13; 4:15 pm]

**BILLING CODE 7570–02–P**

## NUCLEAR REGULATORY COMMISSION

**[NRC–2013–0001]**

### Sunshine Act Meeting Notice

**DATE:** Week of October 28, 2013.

**PLACE:** Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

**STATUS:** Public and Closed.

**Week of October 28, 2013**

*Wednesday, October 30, 2013*

10:00 a.m. Discussion of Security Issues and Management and Personnel Issues (Closed—Ex. 1, 2, and 6)

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*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings, call (recording)—301–415–1292. Contact person for more information: Rochelle Bavol, 301–415–1651.

* * * * *

Additional Information

By a vote of 5–0 on October 28 and 29, 2013, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that the above referenced meeting be held with less than one week notice to the public. The meeting is scheduled on October 30, 2013.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html*.

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g. braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0727, or by email at *kimberly.meyer-chambers@nrc.gov*. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555, (301–415–1969), or send an email to *Darlene.Wright@nrc.gov*.

Dated: October 29, 2013.

**Rochelle C. Bavol,**

*Policy Coordinator, Office of the Secretary.*

[FR Doc. 2013–26371 Filed 10–30–13; 4:15 pm]

BILLING CODE 7590–01–P

## OFFICE OF PERSONNEL MANAGEMENT

### Federal Salary Council

**AGENCY:** Office of Personnel Management.

**ACTION:** Notice of meeting.

**SUMMARY:** The Federal Salary Council meeting originally scheduled for November 5, 2013 (FR Vol. 78, No. 192, page 61404) has been rescheduled for December 17, 2013, at the time and location shown below. The Council is an advisory body composed of representatives of Federal employee organizations and experts in the fields of labor relations and pay policy. The Council makes recommendations to the President's Pay Agent (the Secretary of Labor and the Directors of the Office of Management and Budget and the Office of Personnel Management) about the locality pay program for General Schedule employees under section 5304 of title 5, United States Code. The Council's recommendations cover the establishment or modification of locality pay areas, the coverage of salary surveys, the process of comparing Federal and non-Federal rates of pay, and the level of comparability payments that should be paid.

The Council will hear public testimony about the locality pay program, review the results of pay comparisons, and formulate its recommendations to the President's Pay Agent on pay comparison methods, locality pay rates, and locality pay areas and boundaries for 2015. The meeting is open to the public. Please contact the Office of Personnel Management at the address shown below if you wish to submit testimony or present material to the Council at the meeting.

**DATES:** December 17, 2013, at 9:00 a.m.

*Location:* Office of Personnel Management, 1900 E Street NW., Pendleton Room 5th Floor, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Mark A. Allen, Acting Deputy Associate Director, Pay and Leave, Office of Personnel Management, 1900 E Street NW., Room 7H31, Washington, DC 20415–8200. Phone (202) 606–2838; FAX (202) 606–0824; or email at *pay-leave-policy@opm.gov.*

For the President's Pay Agent.

**Elaine Kaplan,**

*Acting Director.*

[FR Doc. 2013–26013 Filed 10–31–13; 8:45 am]

BILLING CODE 6325–39–P

## SECURITIES AND EXCHANGE COMMISSION

### Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Form N–2, OMB Control No. 3235–0026, SEC File No. 270–21.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collections of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

The title for the collection of information is ''Form N–2 (17 CFR 239.14 and 274.11a–1) under the Securities Act of 1933 and under the Investment Company Act of 1940, Registration Statement of Closed-End Management Investment Companies.'' Form N–2 is the form used by closed-end management investment companies (''closed-end funds'') to register as investment companies under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) (''Investment Company Act'') and to register their securities under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) (''Securities Act''). The primary purpose of the registration process is to provide disclosure of financial and other information current and potential investors for the purpose of evaluating an investment in a security. Form N–2 also permits closed-end funds to provide investors with a prospectus containing information required in a registration statement prior to the sale or at the time of confirmation of delivery of securities. The form also may be used by the Commission in its regulatory review, inspection, and policy-making roles.

The Commission estimates that there are 162 initial registration statements and 29 post-effective amendments to initial registration statements filed on Form N–2 annually and that the average

number of portfolios referenced in each initial filing and post-effective amendment is 1. The Commission further estimates that the hour burden for preparing and filing an initial registration statement on Form N–2 is 515 hours per portfolio, and the hour burden for preparing and filing a post-effective amendment on Form N–2 is 107 hours per portfolio. The estimated annual hour burden for preparing and filing initial registration statements is 83,430 hours (162 initial registration statements × 1 portfolio × 515 hours per portfolio). The estimated annual hour burden for preparing and filing post-effective amendments is 3,103 hours (29 post-effective amendments × 1 portfolio × 107 hours per portfolio). The estimated total annual hour burden for Form N–2, therefore, is estimated to be 86,533 hours (83,430 hours + 3,103 hours).

The information collection requirements imposed by Form N–2 are mandatory. Responses to the collection of information will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid control number.

The public may view the background documentation for this information collection at the following Web site: *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Thomas Bayer, Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or by sending an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: October 28, 2013.

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2013–26035 Filed 10–31–13; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

### Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

*Extension:*

Rule 15c3–5, SEC File No. 270–601, OMB Control No. 3235–0673.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (''PRA''), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the previously approved collection of information provided for in Rule 15c3–5 (17 CFR 240.15c3–5) under the Securities and Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) (''Exchange Act'').

Rule 15c3–5 under the Exchange Act requires brokers or dealers with access to trading directly on an exchange or alternative trading system (''ATS''), including those providing sponsored or direct market access to customers or other persons, to implement risk management controls and supervisory procedures reasonably designed to manage the financial, regulatory, and other risks of this business activity.

The rule requires brokers or dealers to establish, document, and maintain certain risk management controls and supervisory procedures as well as regularly review such controls and procedures, and document the review, and remediate issues discovered to assure overall effectiveness of such controls and procedures. Each such broker or dealer is required to preserve a copy of its supervisory procedures and a written description of its risk management controls as part of its books and records in a manner consistent with Rule 17a–4(e)(7) under the Exchange Act. Such regular review is required to be conducted in accordance with written procedures and is required to be documented. The broker or dealer is required to preserve a copy of such written procedures, and documentation of each such review, as part of its books and records in a manner consistent with Rule 17a–4(e)(7) under the Exchange Act, and Rule 17a–4(b) under the Exchange Act, respectively.

In addition, the Chief Executive Officer (or equivalent officer) is required to certify annually that the broker or dealer's risk management controls and supervisory procedures comply with the rule, and that the broker-dealer conducted such review. Such certifications are required to be preserved by the broker or dealer as part of its books and records in a manner consistent with Rule 17a–4(b) under the Exchange Act. Compliance with Rule 15c3–5 is mandatory.

Respondents consist of broker-dealers with access to trading directly on an exchange or ATS. The Commission estimates that there are currently 870 respondents. To comply with Rule 15c3–5, these respondents will spend approximately 139,200 hours per year (160 hours per broker-dealer × 870 broker-dealers = 139,200 hours). At an average internal cost per burden hour of approximately $390.57, the resultant total related internal cost of compliance for these respondents is $54,367,170 per year (139,200 burden hours multiplied by approximately $390.57/hour). In addition, for hardware and software expenses, the Commission estimates that the average annual external cost would be approximately $20,500 per broker-dealer, or $17,835,000 ($20,500 per broker-dealer × 870 broker-dealers = $17,835,000)

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

The public may view background documentation for this information collection at the following Web site: *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: October 28, 2013.

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2013–26036 Filed 10–31–13; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. IC–30765]**

### Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

October 25, 2013.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of October, 2013. A copy of each 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. An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by writing to the SEC's Secretary at the address below and serving the relevant applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 19, 2013, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, 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 Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

**FOR FURTHER INFORMATION CONTACT:** Diane L. Titus at (202) 551–6810, SEC, Division of Investment Management, Exemptive Applications Office, 100 F Street NE., Washington, DC 20549–8010.

**SEI Alpha Strategy Portfolios, LP [File No. 811–22112]**

*Summary:* Applicant seeks an order declaring that it has ceased to be an investment company. On August 30, 2013, applicant made a liquidating distribution to its shareholder, based on net asset value. Expenses of approximately $3,500 incurred in connection with the liquidation were paid by SEI Investments Management Corporation, applicant's investment adviser.

*Filing Date:* The application was filed on September 27, 2013.

*Applicant's Address:* One Freedom Valley Dr., Oaks, PA 19456.

**John Hancock Series Trust [File No. 811–3392]**

*Summary:* Applicant seeks an order declaring that it has ceased to be an investment company. On June 28, 2013, applicant made a liquidating distribution to its shareholders, based on net asset value. Applicant paid $9,454 in expenses incurred in connection with the liquidation. Applicant has retained $20,540 in cash, which is being held in escrow, for payment of specified unpaid liabilities.

*Filing Date:* The application was filed on September 30, 2013.

*Applicant's Address:* 601 Congress St., Boston, MA 02210–2805.

**Multi-Cap Growth Portfolio [File No. 811–8558]; Focused Growth Portfolio [File No. 811–10607]; Global Dividend Income Portfolio [File No. 811–21875]**

*Summary:* Each applicant seeks an order declaring that it has ceased to be an investment company. On July 25, 2012, July 20, 2012, and August 21, 2012, respectively, applicants made final liquidating distributions to their shareholders, based on net asset value. Applicants incurred no expenses in connection with the liquidations.

*Filing Dates:* The applications were filed on September 20, 2013, and amended on October 9, 2013.

*Applicants' Address:* Two International Place, Boston, MA 02110.

**Arden Macro Fund, L.L.C. [File No. 811–22702]; Arden Macro Master Fund, L.L.C. [File No. 811–22703]**

*Summary:* Each applicant seeks an order declaring that it has ceased to be an investment company. Applicants have never made public offerings of their securities and do not propose to make public offerings or engage in business of any kind.

*Filing Dates:* The applications were filed on August 30, 2013, and amended on October 7, 2013.

*Applicants' Address:* 375 Park Ave., 32nd Floor, New York, NY 10152.

**Greater China Growth Portfolio [File No. 811–7264]**

*Summary:* Applicant seeks an order declaring that it has ceased to be an investment company. On July 31, 2012, applicant made a liquidating distribution to its shareholders, based on net asset value. Applicant incurred no expenses in connection with the liquidation.

*Filing Dates:* The application was filed on September 20, 2013, and amended on October 9, 2013.

*Applicant's Address:* Two International Place, Boston, MA 02110.

**Empiric Funds, Inc. [File No. 811–9088]**

*Summary:* Applicant seeks an order declaring that it has ceased to be an investment company. Applicant has transferred its assets to Mutual Fund Series Trust, and on April 5, 2013, applicant made a final distribution to its shareholders based on net asset value. Expenses of $61,000 incurred in connection with the reorganization were paid by the applicant and Empiric Advisors, Inc., applicant's investment adviser.

*Filing Date:* The application was filed on October 3, 2013.

*Applicant's Address:* Empiric Advisors, Inc., 500 N Capital of Texas Hwy., Building 8, Suite 150, Austin, TX 78746.

**UBS Juniper Crossover Fund, LLC [File No. 811–10113]**

*Summary:* Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On June 18, 2013, applicant made a liquidating distribution to its shareholders, based on net asset value. Expenses of $11,000 incurred in connection with the liquidation were paid by applicant.

*Filing Date:* The application was filed on October 9, 2013.

*Applicant's Address:* c/o UBS Alternative and Quantitative Investment LLC, 677 Washington Blvd., Stamford, CT 06901

**Separate Account I of Washington National Insurance Company [File No. 811–3640]**

*Summary:* Applicant, Separate Account I of Washington National Insurance Company, a unit investment trust registered under the Investment Company Act of 1940 (the ''Act''), seeks an order declaring that it has ceased to be an investment company. Washington National Insurance Company (''Company''), of which Applicant is a separate account, terminated the offering of Applicant's variable annuity contracts (''Contracts'') after 1996. The Applicant no longer accepts new purchase payments and the Company has not engaged in any solicitation or marketing activities with respect to the Contracts for 17 years. The Applicant has no securityholders other than the current 95 beneficial owners of the Contracts. Applicant is not making and does not presently propose to make a public offering of the Contracts. After the deregistration order requested by the Applicant is issued, securityholders under the Contracts will be promptly notified that certain legal protections afforded to securityholders of an investment company registered under the Act will no longer apply. However, after issuance of the order, the Company will continue to be responsible for satisfying all the obligations to securityholders under the Contracts.

*Filing Date:* The application was filed on September 3, 2013.

*Applicant's Address:* 11815 N. Pennsylvania Street, Carmel IN 46032.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2013–26037 Filed 10–31–13; 8:45 am]

BILLING CODE 8011–01–P

## SECURITIES AND EXCHANGE COMMISSION

**[Investment Company Act Release No. 30768; File No. 812–14202]**

## Cambria ETF Trust, et al.; Notice of Application

October 28, 2013.

**AGENCY:** Securities and Exchange Commission (''Commission'').

**ACTION:** Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act.

**SUMMARY OF APPLICATION:** Applicants request an order that would permit (a) Series of certain open-end management investment companies to issue shares (''Shares'') redeemable in large aggregations only (''Creation Units''); (b) secondary market transactions in Shares to occur at negotiated market prices rather than at net asset value (''NAV''); (c) certain series to pay redemption proceeds, under certain circumstances, more than seven days after the tender of Shares for redemption; (d) certain affiliated persons of the series to deposit securities into, and receive securities from, the series in connection with the purchase and redemption of Creation Units; and (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the series to acquire Shares.

**APPLICANTS:** Cambria ETF Trust (''Trust''), Cambria Investment Management, L.P. (''Initial Adviser''), and SEI Investments Distribution Company (''Distributor'').

**DATES:** *Filing Dates:* The application was filed on August 12, 2013 and amended on October 11, 2013.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the requested relief 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 November 22, 2013, and should be accompanied by proof of service on applicants, in the form of an affidavit, or for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, 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:** Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090; Applicants, c/o Stacy L. Fuller, Esq., K&L Gates LLP, 1601 K Street NW., Washington, DC 20006–1600.

**FOR FURTHER INFORMATION CONTACT:** Courtney S. Thornton, Senior Counsel, at (202) 551–6812, or David P. Bartels, Branch Chief, at (202) 551–6821 (Division of Investment Management, Exemptive Applications 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. The Trust is a Delaware statutory trust registered under the Act as an open-end management investment company with multiple series.

2. The Initial Adviser is registered as an investment adviser under the Investment Advisers Act of 1940 (the ''Advisers Act'') and will be the investment adviser to the Funds. Any other Adviser (defined below) will also be registered as an investment adviser under the Advisers Act. The Adviser may enter into sub-advisory agreements with one or more investment advisers to act as sub-advisers to particular Funds (each, a ''Sub-Adviser''). Any Sub-Adviser will either be registered under the Advisers Act or will not be required to register thereunder.

3. The Distributor is a broker-dealer (''Broker'') registered under the Securities Exchange Act of 1934 (the ''Exchange Act'') and will act as the principal underwriter of the Initial Fund. The Distributor will not be affiliated with any Exchange (defined below). Applicants ask that the requested order apply to future distributors of the Trust that comply with the terms and conditions of the order.

4. Applicants request that the order apply to the initial index-based series of the Trust described in the application (''Initial Fund''), as well as any additional series of the Trust and other open-end management investment companies, or series thereof, that may be created in the future (''Future Funds''), each of which will operate as an exchanged-traded fund (''ETF'') and will track a specified index comprised of domestic or foreign equity and/or fixed income securities (each, an ''Underlying Index''). Any Future Fund will (a) be advised by the Initial Adviser or an entity controlling, controlled by, or under common control with the Initial Adviser (each, an ''Adviser'') and (b) comply with the terms and conditions of the application. The Initial Fund and Future Funds, together, are the ''Funds.'' [1]

5. Each Fund will hold certain securities (''Portfolio Securities'') selected to correspond generally to the performance of its Underlying Index. The Underlying Indexes will be comprised solely of equity and/or fixed income securities issued by one or more of the following categories of issuers: (i) Domestic issuers and (ii) non-domestic issuers meeting the requirements for trading in U.S. markets. Other Funds will be based on Underlying Indexes that will be comprised solely of foreign and domestic or solely foreign equity and/or fixed income securities (''Foreign Funds'').

6. Applicants represent that each Fund will invest at least 80% of its assets (excluding securities lending collateral) in the component securities of its respective Underlying Index (''Component Securities'') and TBA Transactions,[2] and in the case of Foreign Funds, Component Securities and Depositary Receipts [3] representing Component Securities. Each Fund may also invest up to 20% of its assets in

[1] All existing entities that intend to rely on the requested order have been named as applicants. Any other existing or future entity that subsequently relies on the order will comply with the terms and conditions of the order. A Fund of Funds (as defined below) may rely on the order only to invest in Funds and not in any other registered investment company.

[2] A ''to-be-announced transaction'' or ''TBA Transaction'' is a method of trading mortgage-backed securities. In a TBA Transaction, the buyer and seller agree upon general trade parameters such as agency, settlement date, par amount and price. The actual pools delivered generally are determined two days prior to settlement date.

[3] Depositary receipts representing foreign securities (''Depositary Receipts'') include American Depositary Receipts and Global Depositary Receipts. The Funds may invest in Depositary Receipts representing foreign securities in which they seek to invest. Depositary Receipts are typically issued by a financial institution (a ''depositary bank'') and evidence ownership interests in a security or a pool of securities that have been deposited with the depositary bank. A Fund will not invest in any Depositary Receipts that the Adviser or any Sub-Adviser deems to be illiquid or for which pricing information is not readily available. No affiliated person of a Fund, the Adviser or any Sub-Adviser will serve as the depositary bank for any Depositary Receipts held by a Fund.

certain index futures, options, options on index futures, swap contracts or other derivatives, as related to its respective Underlying Index and its Component Securities, cash and cash equivalents, other investment companies, as well as in securities and other instruments not included in its Underlying Index but which the Adviser believes will help the Fund track its Underlying Index. A Fund may also engage in short sales in accordance with its investment objective.

7. The Trust may issue Funds that seek to track Underlying Indexes constructed using 130/30 investment strategies (''130/30 Funds'') or other long/short investment strategies (''Long/Short Funds''). Each Long/Short Fund will establish (i) exposures equal to approximately 100% of the long positions specified by the Long/Short Index [4] and (ii) exposures equal to approximately 100% of the short positions specified by the Long/Short Index. Each 130/30 Fund will include strategies that: (i) Establish long positions in securities so that total long exposure represents approximately 130% of a Fund's net assets; and (ii) simultaneously establish short positions in other securities so that total short exposure represents approximately 30% of such Fund's net assets. Each Business Day, for each Long/Short Fund and 130/30 Fund, the Adviser will provide full portfolio transparency on the Fund's publicly available Web site (''Web site'') by making available the Fund's Portfolio Holdings (defined below) before the commencement of trading of Shares on the Listing Exchange (defined below).[5] The information provided on the Web site will be formatted to be reader-friendly.

8. A Fund will utilize either a replication or representative sampling strategy to track its Underlying Index. A Fund using a replication strategy will invest in the Component Securities of its Underlying Index in the same approximate proportions as in such Underlying Index. A Fund using a representative sampling strategy will hold some, but not necessarily all of the Component Securities of its Underlying Index. Applicants state that a Fund using a representative sampling strategy will not be expected to track the performance of its Underlying Index with the same degree of accuracy as would an investment vehicle that invested in every Component Security of the Underlying Index with the same weighting as the Underlying Index. Applicants expect that each Fund will have an annual tracking error relative to the performance of its Underlying Index of less than 5%.

9. Each Fund will be entitled to use its Underlying Index pursuant to either a licensing agreement with the entity that compiles, creates, sponsors or maintains the Underlying Index (each, an ''Index Provider'') or a sub-licensing arrangement with the applicable Adviser, which will have a licensing agreement with such Index Provider.[6] A ''Self-Indexing Fund'' is a Fund for which an affiliated person, as defined in section 2(a)(3) of the Act, or an affiliated person of an affiliated person (''Second-Tier Affiliate'') of the Trust or a Fund, of the Adviser, of any Sub-Adviser to or promoter of a Fund, or of the Distributor (each, an ''Affiliated Index Provider'') [7] will serve as the Index Provider. In the case of Self-Indexing Funds, an Affiliated Index Provider will create a proprietary, rules-based methodology to create Underlying Indexes (each an ''Affiliated Index'').[8] Except with respect to the Self-Indexing Funds, no Index Provider is or will be an affiliated person, or a Second-Tier Affiliate, of the Trust or a Fund, of the Adviser, of any Sub-Adviser to or promoter of a Fund, or of the Distributor.

10. Applicants recognize that Self-Indexing Funds could raise concerns regarding the ability of the Affiliated Index Provider to manipulate the Underlying Index to the benefit or detriment of the Self-Indexing Fund. Applicants further recognize the potential for conflicts that may arise with respect to the personal trading activity of personnel of the Affiliated Index Provider who have knowledge of changes to an Underlying Index prior to the time that information is publicly disseminated. Prior orders granted to self-indexing ETFs (''Prior Self-Indexing Orders'') addressed these concerns by creating a framework that required: (i) Transparency of the Underlying Indexes; (ii) the adoption of policies and procedures not otherwise required by the Act designed to mitigate such conflicts of interest; (iii) limitations on the ability to change the rules for index compilation and the component securities of the index; (iv) that the index provider enter into an agreement with an unaffiliated third party to act as ''Calculation Agent''; and (v) certain limitations designed to separate employees of the index provider, adviser and Calculation Agent (clauses (ii) through (v) are hereinafter referred to as ''Policies and Procedures'').[9]

11. Instead of adopting the same or similar Policies and Procedures, Applicants propose that each day that a Fund, the NYSE and the national securities exchange (as defined in section 2(a)(26) of the Act) (an ''Exchange'') on which the Fund's Shares are primarily listed (''Listing Exchange'') are open for business, including any day that a Fund is required to be open under section 22(e) of the Act (a ''Business Day''), each Self-Indexing Fund will post on its Web site, before commencement of trading of Shares on the Listing Exchange, the identities and quantities of the portfolio securities, assets, and other positions held by the Fund that will form the basis for the Fund's calculation of its NAV at the end of the Business Day (''Portfolio Holdings''). Applicants believe that requiring Self-Indexing Funds to maintain full portfolio transparency will provide an effective alternative mechanism for addressing any such potential conflicts of interest.

12. Applicants represent that each Self-Indexing Fund's Portfolio Holdings will be as transparent as the portfolio holdings of existing actively managed

[4] Underlying Indexes that include both long and short positions in securities are referred to as ''Long/Short Indexes.''

[5] Under accounting procedures followed by each Fund, trades made on the prior Business Day (''T'') will be booked and reflected in NAV on the current Business Day (T+1). Accordingly, the Funds will be able to disclose at the beginning of the Business Day the portfolio that will form the basis for the NAV calculation at the end of the Business Day.

[6] The licenses for the Self-Indexing Funds will specifically state that the Affiliated Index Provider (or in case of a sub-licensing agreement, the Adviser) must provide the use of the Underlying Indexes and related intellectual property at no cost to the Trust and the Self-Indexing Funds.

[7] Currently Cambria Indices, LLC is the only entity that is expected to serve as Affiliated Index Provider. Any future entity that acts as Affiliated Index Provider will comply with the terms and conditions of the application.

[8] The Affiliated Indexes may be made available to registered investment companies, as well as separately managed accounts of institutional investors and privately offered funds that are not deemed to be ''investment companies'' in reliance on section 3(c)(1) or 3(c)(7) of the Act for which the Adviser acts as adviser or subadviser (''Affiliated Accounts'') as well as other such registered investment companies, separately managed accounts and privately offered funds for which it does not act either as adviser or subadviser (''Unaffiliated Accounts''). The Affiliated Accounts and the Unaffiliated Accounts, like the Funds, would seek to track the performance of one or more Underlying Index(es) by investing in the constituents of such Underlying Indexes or a representative sample of such constituents of the Underlying Index. Consistent with the relief requested from section 17(a), the Affiliated Accounts will not engage in Creation Unit transactions with a Fund.

[9] *See, e.g.,* In the Matter of WisdomTree Investments Inc., et al., Investment Company Act Release Nos. 27324 (May 18, 2006) (notice) and 27391 (June 12, 2006) (order); In the Matter of IndexIQ ETF Trust, et al., Investment Company Act Release Nos. 28638 (Feb. 27, 2009) (notice) and 28653 (March 20, 2009) (order); and Van Eck Associates Corporation, et al., et al., Investment Company Act Release Nos. 29455 (Oct. 1, 2010) (notice) and 29490 (Oct. 26, 2010) (order).

ETFs. Applicants observe that the framework set forth in the Prior Self-Indexing Orders was established before the Commission began issuing exemptive relief to allow the offering of actively-managed ETFs.[10] Unlike passively-managed ETFs, actively-managed ETFs do not seek to replicate the performance of a specified index but rather seek to achieve their investment objectives by using an ''active'' management strategy. Applicants contend that the structure of actively managed ETFs presents potential conflicts of interest that are the same as those presented by Self-Indexing Funds because the portfolio managers of an actively managed ETF by definition have advance knowledge of pending portfolio changes. However, rather than requiring Policies and Procedures similar to those required under the Prior Self-Indexing Orders, Applicants believe that actively managed ETFs address these potential conflicts of interest appropriately through full portfolio transparency, as the conditions to their relevant exemptive relief require.

13. In addition, Applicants do not believe the potential for conflicts of interest raised by the Adviser's use of the Underlying Indexes in connection with the management of the Self Indexing Funds and the Affiliated Accounts will be substantially different from the potential conflicts presented by an adviser managing two or more registered funds. Both the Act and the Advisers Act contain various protections to address conflicts of interest where an adviser is managing two or more registered funds and these protections will also help address these conflicts with respect to the Self-Indexing Funds.[11]

14. The Adviser and any Sub-Adviser has adopted or will adopt, pursuant to Rule 206(4)–7 under the Advisers Act, written policies and procedures designed to prevent violations of the Advisers Act and the rules thereunder. These include policies and procedures designed to minimize potential conflicts of interest among the Self-Indexing Funds and the Affiliated Accounts, such as cross trading policies, as well as those designed to ensure the equitable allocation of portfolio transactions and brokerage commissions. In addition, the Adviser has adopted policies and procedures as required under section 204A of the Advisers Act, which are reasonably designed in light of the nature of its business to prevent the misuse, in violation of the Advisers Act or the Exchange Act or the rules thereunder, of material non-public information by the Adviser or an associated person (''Inside Information Policy''). Any Sub-Adviser will be required to adopt and maintain a similar Inside Information Policy. In accordance with the Code of Ethics [12] and Inside Information Policy of the Adviser and Sub-Advisers, personnel of those entities with knowledge about the composition of the Portfolio Deposit [13] will be prohibited from disclosing such information to any other person, except as authorized in the course of their employment, until such information is made public. In addition, an Index Provider will not provide any information relating to changes to an Underlying Index's methodology for the inclusion of component securities, the inclusion or exclusion of specific component securities, or methodology for the calculation or the return of component securities, in advance of a public announcement of such changes by the Index Provider. The Adviser will also include under Item 10.C. of Part 2 of its Form ADV a discussion of its relationship to any Affiliated Index Provider and any material conflicts of interest resulting therefrom, regardless of whether the Affiliated Index Provider is a type of affiliate specified in Item 10.

15. To the extent the Self-Indexing Funds transact with an Affiliated Person of the Adviser or Sub-Adviser, such transactions will comply with the Act, the rules thereunder and the terms and conditions of the requested order. In this regard, each Self-Indexing Fund's board of directors or trustees (''Board'') will periodically review the Self-Indexing Fund's use of an Affiliated Index Provider. Subject to the approval of the Self-Indexing Fund's Board, the Adviser, Affiliated Persons of the Adviser (''Adviser Affiliates'') and Affiliated Persons of any Sub-Adviser (''Sub-Adviser Affiliates'') may be authorized to provide custody, fund accounting and administration and transfer agency services to the Self-Indexing Funds. Any services provided by the Adviser, Adviser Affiliates, Sub-Adviser and Sub-Adviser Affiliates will be performed in accordance with the provisions of the Act, the rules under the Act and any relevant guidelines from the staff of the Commission.

16. In light of the foregoing, Applicants believe it is appropriate to allow the Self-Indexing Funds to be fully transparent in lieu of Policies and Procedures from the Prior Self-Indexing Orders discussed above.

17. The Shares of each Fund will be purchased and redeemed in Creation Units and generally on an in-kind basis. Except where the purchase or redemption will include cash under the limited circumstances specified below, purchasers will be required to purchase Creation Units by making an in-kind deposit of specified instruments (''Deposit Instruments''), and shareholders redeeming their Shares will receive an in-kind transfer of specified instruments (''Redemption Instruments'').[14] On any given Business Day, the names and quantities of the instruments that constitute the Deposit Instruments and the names and quantities of the instruments that constitute the Redemption Instruments will be identical, unless the Fund is Rebalancing (as defined below). In addition, the Deposit Instruments and the Redemption Instruments will each correspond pro rata to the positions in the Fund's portfolio (including cash positions) [15] except: (a) In the case of bonds, for minor differences when it is impossible to break up bonds beyond certain minimum sizes needed for transfer and settlement; (b) for minor differences when rounding is necessary to eliminate fractional shares or lots that are not tradeable round lots; [16] (c) TBA Transactions, short positions,

[10] *See, e.g.,* In the Matter of Huntington Asset Advisors, Inc., et al., Investment Company Act Release Nos. 30032 (April 10, 2012) (notice) and 30061 (May 8, 2012) (order); In the Matter of Russell Investment Management Co., et al., Investment Company Act Release Nos. 29655 (April 20, 2011) (notice) and 29671 (May 16, 2011) (order); In the Matter of Eaton Vance Management, et al., Investment Company Act Release Nos. 29591 (March 11, 2011) (notice) and 29620 (March 30, 2011) (order) and; In the Matter of iShares Trust, et al., Investment Company Act Release Nos. 29543 (Dec. 27, 2010) (notice) and 29571 (Jan. 24, 2011) (order).

[11] *See, e.g.,* Rule 17j–1 under the Act and Section 204A under the Advisers Act and Rules 204A–1 and 206(4)–7 under the Advisers Act.

[12] The Adviser has also adopted or will adopt a code of ethics pursuant to Rule 17j–1 under the Act and Rule 204A–1 under the Advisers Act, which contains provisions reasonably necessary to prevent Access Persons (as defined in Rule 17j–1) from engaging in any conduct prohibited in Rule 17j–1 (''Code of Ethics'').

[13] The instruments and cash that the purchaser is required to deliver in exchange for the Creation Units it is purchasing is referred to as the ''Portfolio Deposit.''

[14] The Funds must comply with the federal securities laws in accepting Deposit Instruments and satisfying redemptions with Redemption Instruments, including that the Deposit Instruments and Redemption Instruments are sold in transactions that would be exempt from registration under the Securities Act of 1933 (''Securities Act''). In accepting Deposit Instruments and satisfying redemptions with Redemption Instruments that are restricted securities eligible for resale pursuant to rule 144A under the Securities Act, the Funds will comply with the conditions of rule 144A.

[15] The portfolio used for this purpose will be the same portfolio used to calculate the Fund's NAV for the Business Day.

[16] A tradeable round lot for a security will be the standard unit of trading in that particular type of security in its primary market.

derivatives and other positions that cannot be transferred in kind [17] will be excluded from the Deposit Instruments and the Redemption Instruments; [18](d) to the extent the Fund determines, on a given Business Day, to use a representative sampling of the Fund's portfolio; [19] or (e) for temporary periods, to effect changes in the Fund's portfolio as a result of the rebalancing of its Underlying Index (any such change, a ''Rebalancing''). If there is a difference between the NAV attributable to a Creation Unit and the aggregate market value of the Deposit Instruments or Redemption Instruments exchanged for the Creation Unit, the party conveying instruments with the lower value will also pay to the other an amount in cash equal to that difference (the ''Cash Amount'').

18. Purchases and redemptions of Creation Units may be made in whole or in part on a cash basis, rather than in kind, solely under the following circumstances: (a) To the extent there is a Cash Amount; (b) if, on a given Business Day, the Fund announces before the open of trading that all purchases, all redemptions or all purchases and redemptions on that day will be made entirely in cash; (c) if, upon receiving a purchase or redemption order from an Authorized Participant, the Fund determines to require the purchase or redemption, as applicable, to be made entirely in cash; [20] (d) if, on a given Business Day, the Fund requires all Authorized Participants purchasing or redeeming Shares on that day to deposit or receive (as applicable) cash in lieu of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because: (i) Such instruments are not eligible for transfer through either the NSCC or DTC (defined below); or (ii) in the case of Foreign Funds holding non-U.S. investments, such instruments are not eligible for trading due to local trading restrictions, local restrictions on securities transfers or other similar circumstances; or (e) if the Fund permits an Authorized Participant to deposit or receive (as applicable) cash in lieu of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because: (i) Such instruments are, in the case of the purchase of a Creation Unit, not available in sufficient quantity; (ii) such instruments are not eligible for trading by an Authorized Participant or the investor on whose behalf the Authorized Participant is acting; or (iii) a holder of Shares of a Foreign Fund holding non-U.S. investments would be subject to unfavorable income tax treatment if the holder receives redemption proceeds in kind.[21]

19. Creation Units will consist of specified large aggregations of Shares, *e.g.,* at least 25,000 Shares, and it is expected that the initial price of a Creation Unit will range from $750,000 to $10 million. All orders to purchase Creation Units must be placed with the Distributor by or through an ''Authorized Participant'' which is either (1) a ''Participating Party,'' i.e., a broker-dealer or other participant in the Continuous Net Settlement System of the NSCC, a clearing agency registered with the Commission, or (2) a participant in The Depository Trust Company (''DTC'') (''DTC Participant''), which, in either case, has signed a participant agreement with the Distributor. The Distributor will be responsible for transmitting the orders to the Funds and will furnish to those placing such orders confirmation that the orders have been accepted, but applicants state that the Distributor may reject any order which is not submitted in proper form.

20. Each Business Day, before the open of trading on the Listing Exchange, each Fund will cause to be published through the NSCC the names and quantities of the instruments comprising the Deposit Instruments and the Redemption Instruments, as well as the estimated Cash Amount (if any), for that day. The list of Deposit Instruments and Redemption Instruments will apply until a new list is announced on the following Business Day, and there will be no intra-day changes to the list except to correct errors in the published list. Each Listing Exchange will disseminate, every 15 seconds during regular Exchange trading hours, through the facilities of the Consolidated Tape Association, an amount for each Fund stated on a per individual Share basis representing the sum of (i) the estimated Cash Amount and (ii) the current value of the Deposit Instruments.

21. Transaction expenses, including operational processing and brokerage costs, will be incurred by a Fund when investors purchase or redeem Creation Units in-kind and such costs have the potential to dilute the interests of the Fund's existing shareholders. Each Fund will impose purchase or redemption transaction fees (''Transaction Fees'') in connection with effecting such purchases or redemptions of Creation Units. In all cases, such Transaction Fees will be limited in accordance with requirements of the Commission applicable to management investment companies offering redeemable securities. Since the Transaction Fees are intended to defray the transaction expenses as well as to prevent possible shareholder dilution resulting from the purchase or redemption of Creation Units, the Transaction Fees will be borne only by such purchasers or redeemers.[22] The Distributor will be responsible for delivering the Fund's prospectus to those persons acquiring Shares in Creation Units and for maintaining records of both the orders placed with it and the confirmations of acceptance furnished by it. In addition, the Distributor will maintain a record of the instructions given to the applicable Fund to implement the delivery of its Shares.

22. Shares of each Fund will be listed and traded individually on an Exchange. It is expected that one or more member firms of an Exchange will be designated to act as a market maker (each, a ''Market Maker'') and maintain a market for Shares trading on the Exchange. Prices of Shares trading on an Exchange will be based on the current bid/offer market. Transactions involving the sale of Shares on an Exchange will be subject to customary brokerage commissions and charges.

23. Applicants expect that purchasers of Creation Units will include

[17] This includes instruments that can be transferred in kind only with the consent of the original counterparty to the extent the Fund does not intend to seek such consents.

[18] Because these instruments will be excluded from the Deposit Instruments and the Redemption Instruments, their value will be reflected in the determination of the Cash Amount (as defined below).

[19] A Fund may only use sampling for this purpose if the sample: (i) Is designed to generate performance that is highly correlated to the performance of the Fund's portfolio; (ii) consists entirely of instruments that are already included in the Fund's portfolio; and (iii) is the same for all Authorized Participants on a given Business Day.

[20] In determining whether a particular Fund will sell or redeem Creation Units entirely on a cash or in-kind basis (whether for a given day or a given order), the key consideration will be the benefit that would accrue to the Fund and its investors. For instance, in bond transactions, the Adviser may be able to obtain better execution than Share purchasers because of the Adviser's size, experience and potentially stronger relationships in the fixed income markets. Purchases of Creation Units either on an all cash basis or in-kind are expected to be neutral to the Funds from a tax perspective. In contrast, cash redemptions typically require selling portfolio holdings, which may result in adverse tax consequences for the remaining Fund shareholders that would not occur with an in-kind redemption. As a result, tax consideration may warrant in-kind redemptions.

[21] A ''custom order'' is any purchase or redemption of Shares made in whole or in part on a cash basis in reliance on clause (e)(i) or (e)(ii).

[22] Where a Fund permits an in-kind purchaser to substitute cash-in-lieu of depositing one or more of the requisite Deposit Instruments, the purchaser may be assessed a higher Transaction Fee to cover the cost of purchasing such Deposit Instruments.

institutional investors and arbitrageurs. Market Makers, acting in their roles to provide a fair and orderly secondary market for the Shares, may from time to time find it appropriate to purchase or redeem Creation Units. Applicants expect that secondary market purchasers of Shares will include both institutional and retail investors.[23] The price at which Shares trade will be disciplined by arbitrage opportunities created by the option continually to purchase or redeem Shares in Creation Units, which should help prevent Shares from trading at a material discount or premium in relation to their NAV.

24. Shares will not be individually redeemable, and owners of Shares may acquire those Shares from the Fund, or tender such Shares for redemption to the Fund, in Creation Units only. To redeem, an investor must accumulate enough Shares to constitute a Creation Unit. Redemption requests must be placed through an Authorized Participant. A redeeming investor may pay a Transaction Fee, calculated in the same manner as a Transaction Fee payable in connection with purchases of Creation Units.

25. Neither the Trust nor any Fund will be advertised or marketed or otherwise held out as a traditional open-end investment company or a ''mutual fund.'' Instead, each such Fund will be marketed as an ''ETF.'' All marketing materials that describe the features or method of obtaining, buying or selling Creation Units, or Shares traded on an Exchange, or refer to redeemability, will prominently disclose that Shares are not individually redeemable and will disclose that the owners of Shares may acquire those Shares from the Fund or tender such Shares for redemption to the Fund in Creation Units only. The Funds will provide copies of their annual and semi-annual shareholder reports to DTC Participants for distribution to beneficial owners of Shares.

**Applicants' Legal Analysis**

1. Applicants request an order under section 6(c) of the Act for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and (B) of the Act, and under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act.

2. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class of persons, securities or transactions, from any provision 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. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act if evidence establishes that the terms of the 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 policies of the registered investment company and the general provisions of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provisions of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors.

*Sections 5(a)(1) and 2(a)(32) of the Act*

3. Section 5(a)(1) of the Act defines an ''open-end company'' as a management investment company that is offering for sale or has outstanding any redeemable security of which it is the issuer. Section 2(a)(32) of the Act defines a redeemable security as any security, other than short-term paper, under the terms of which the owner, upon its presentation to the issuer, is entitled to receive approximately a proportionate share of the issuer's current net assets, or the cash equivalent. Because Shares will not be individually redeemable, applicants request an order that would permit the Funds to register as open-end management investment companies and issue Shares that are redeemable in Creation Units only. Applicants state that investors may purchase Shares in Creation Units and redeem Creation Units from each Fund. Applicants further state that because Creation Units may always be purchased and redeemed at NAV, the price of Shares on the secondary market should not vary materially from NAV.

*Section 22(d) of the Act and Rule 22c–1 under the Act*

4. Section 22(d) of the Act, among other things, prohibits a dealer from selling a redeemable security that is currently being offered to the public by or through an underwriter, except at a current public offering price described in the prospectus. Rule 22c–1 under the Act generally requires that a dealer selling, redeeming or repurchasing a redeemable security do so only at a price based on its NAV. Applicants state that secondary market trading in Shares will take place at negotiated prices, not at a current offering price described in a Fund's prospectus, and not at a price based on NAV. Thus, purchases and sales of Shares in the secondary market will not comply with section 22(d) of the Act and rule 22c–1 under the Act. Applicants request an exemption under section 6(c) from these provisions.

5. Applicants assert that the concerns sought to be addressed by section 22(d) of the Act and rule 22c–1 under the Act with respect to pricing are equally satisfied by the proposed method of pricing Shares. Applicants maintain that while there is little legislative history regarding section 22(d), its provisions, as well as those of rule 22c–1, appear to have been designed to (a) prevent dilution caused by certain riskless-trading schemes by principal underwriters and contract dealers, (b) prevent unjust discrimination or preferential treatment among buyers, and (c) ensure an orderly distribution of investment company shares by eliminating price competition from dealers offering shares at less than the published sales price and repurchasing shares at more than the published redemption price.

6. Applicants believe that none of these purposes will be thwarted by permitting Shares to trade in the secondary market at negotiated prices. Applicants state that (a) secondary market trading in Shares does not involve a Fund as a party and will not result in dilution of an investment in Shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in Shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants contend that the price at which Shares trade will be disciplined by arbitrage opportunities created by the option continually to purchase or redeem Shares in Creation Units, which should help prevent Shares from trading at a material discount or premium in relation to their NAV.

*Section 22(e)*

7. Section 22(e) of the Act generally prohibits a registered investment company from suspending the right of redemption or postponing the date of payment of redemption proceeds for

[23] Shares will be registered in book-entry form only. DTC or its nominee will be the record or registered owner of all outstanding Shares. Beneficial ownership of Shares will be shown on the records of DTC or the DTC Participants.

more than seven days after the tender of a security for redemption. Applicants state that settlement of redemptions for Foreign Funds will be contingent not only on the settlement cycle of the United States market, but also on current delivery cycles in local markets for underlying foreign Portfolio Securities held by a Foreign Fund. Applicants state that the delivery cycles currently practicable for transferring Redemption Instruments to redeeming investors, coupled with local market holiday schedules, may require a delivery process of up to fifteen (15) calendar days.[24] Accordingly, with respect to Foreign Funds only, Applicants hereby request relief under section 6(c) from the requirement imposed by section 22(e) to allow Foreign Funds to pay redemption proceeds within fifteen (15) calendar days following the tender of Creation Units for redemption.[25]

8. Applicants believe that Congress adopted section 22(e) to prevent unreasonable, undisclosed or unforeseen delays in the actual payment of redemption proceeds. Applicants propose that allowing redemption payments for Creation Units of a Foreign Fund to be made within fifteen calendar days would not be inconsistent with the spirit and intent of section 22(e). Applicants suggest that a redemption payment occurring within fifteen calendar days following a redemption request would adequately afford investor protection.

9. Applicants are not seeking relief from section 22(e) with respect to Foreign Funds that do not effect creations and redemptions of Creation Units in-kind.

*Section 12(d)(1)*

10. Section 12(d)(1)(A) of the Act prohibits a registered investment company from acquiring securities of an investment company if such securities represent more than 3% of the total outstanding voting stock of the acquired company, more than 5% of the total assets of the acquiring company, or, together with the securities of any other investment companies, more than 10% of the total assets of the acquiring company. Section 12(d)(1)(B) of the Act prohibits a registered open-end investment company, its principal underwriter and any other broker-dealer from knowingly selling the investment company's shares to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies generally.

11. Applicants request an exemption to permit registered management investment companies and unit investment trusts (''UITs'') that are not advised or sponsored by the Adviser, and not part of the same ''group of investment companies,'' as defined in section 12(d)(1)(G)(ii) of the Act as the Funds (such management investment companies are referred to as ''Investing Management Companies,'' such UITs are referred to as ''Investing Trusts,'' and Investing Management Companies and Investing Trusts are collectively referred to as ''Funds of Funds''), to acquire Shares beyond the limits of section 12(d)(1)(A) of the Act; and the Funds, and any principal underwriter for the Funds, and/or any Broker registered Exchange Act, to sell Shares to Funds of Funds beyond the limits of section 12(d)(1)(B) of the Act.

12. Each Investing Management Company will be advised by an investment adviser within the meaning of section 2(a)(20)(A) of the Act (the ''Fund of Funds Adviser'') and may be sub-advised by investment advisers within the meaning of section 2(a)(20)(B) of the Act (each a ''Fund of Funds Sub-Adviser''). Any investment adviser to an Investing Management Company will be registered under the Advisers Act. Each Investing Trust will be sponsored by a sponsor (''Sponsor'').

13. Applicants submit that the proposed conditions to the requested relief adequately address the concerns underlying the limits in sections 12(d)(1)(A) and (B), which include concerns about undue influence by a fund of funds over underlying funds, excessive layering of fees and overly complex fund structures. Applicants believe that the requested exemption is consistent with the public interest and the protection of investors.

14. Applicants believe that neither a Fund of Funds nor a Fund of Funds Affiliate would be able to exert undue influence over a Fund.[26] To limit the control that a Fund of Funds may have over a Fund, applicants propose a condition prohibiting a Fund of Funds Adviser or Sponsor, any person controlling, controlled by, or under common control with a Fund of Funds Adviser or Sponsor, and any investment company and any issuer that would be an investment company but for sections 3(c)(1) or 3(c)(7) of the Act that is advised or sponsored by a Fund of Funds Adviser or Sponsor, or any person controlling, controlled by, or under common control with a Fund of Funds Adviser or Sponsor (''Fund of Funds Advisory Group'') from controlling (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. The same prohibition would apply to any Fund of Funds Sub-Adviser, any person controlling, controlled by or under common control with the Fund of Funds Sub-Adviser, and any investment company or issuer that would be an investment company but for sections 3(c)(1) or 3(c)(7) of the Act (or portion of such investment company or issuer) advised or sponsored by the Fund of Funds Sub-Adviser or any person controlling, controlled by or under common control with the Fund of Funds Sub-Adviser (''Fund of Funds Sub-Advisory Group'').

15. Applicants propose other conditions to limit the potential for undue influence over the Funds, including that no Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to a Fund) will cause a Fund to purchase a security in an offering of securities during the existence of an underwriting or selling syndicate of which a principal underwriter is an Underwriting Affiliate (''Affiliated Underwriting''). An ''Underwriting Affiliate'' is a principal underwriter in any underwriting or selling syndicate that is an officer, director, member of an advisory board, Fund of Funds Adviser, Fund of Funds Sub-Adviser, employee or Sponsor of the Fund of Funds, or a person of which any such officer, director, member of an advisory board, Fund of Funds Adviser or Fund of Funds Sub-Adviser, employee or Sponsor is an affiliated person (except that any person whose relationship to the Fund is covered by section 10(f) of the Act is not an Underwriting Affiliate).

16. Applicants do not believe that the proposed arrangement will involve excessive layering of fees. The board of directors or trustees of any Investing

[24] Certain countries in which a Fund may invest have historically had settlement periods of up to fifteen (15) calendar days.

[25] Applicants acknowledge that no relief obtained from the requirements of section 22(e) will affect any obligations Applicants may otherwise have under rule 15c6–1 under the Exchange Act requiring that most securities transactions be settled within three business days of the trade date.

[26] A ''Fund of Funds Affiliate'' is a Fund of Funds Adviser, Fund of Funds Sub-Adviser, Sponsor, promoter, and principal underwriter of a Fund of Funds, and any person controlling, controlled by, or under common control with any of those entities. A ''Fund Affiliate'' is an investment adviser, promoter, or principal underwriter of a Fund and any person controlling, controlled by or under common control with any of these entities.

Management Company, including a majority of the directors or trustees who are not ''interested persons'' within the meaning of section 2(a)(19) of the Act (''disinterested directors or trustees''), will find that the advisory fees charged under the contract are based on services provided that will be in addition to, rather than duplicative of, services provided under the advisory contract of any Fund in which the Investing Management Company may invest. In addition, under condition B.5., a Fund of Funds Adviser, or a Fund of Funds' trustee or Sponsor, as applicable, will waive fees otherwise payable to it by the Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by a Fund under rule 12b–1 under the Act) received from a Fund by the Fund of Funds Adviser, trustee or Sponsor or an affiliated person of the Fund of Funds Adviser, trustee or Sponsor, other than any advisory fees paid to the Fund of Funds Adviser, trustee or Sponsor or its affiliated person by a Fund, in connection with the investment by the Fund of Funds in the Fund. Applicants state that any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.[27]

17. Applicants submit that the proposed arrangement will not create an overly complex fund structure. Applicants note that no Fund will acquire securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent permitted by exemptive relief from the Commission permitting the Fund to purchase shares of other investment companies for short-term cash management purposes. To ensure a Fund of Funds is aware of the terms and conditions of the requested order, the Fund of Funds will enter into an agreement with the Fund (''FOF Participation Agreement''). The FOF Participation Agreement will include an acknowledgement from the Fund of Funds that it may rely on the order only to invest in the Funds and not in any other investment company.

18. Applicants also note that a Fund may choose to reject a direct purchase of Shares in Creation Units by a Fund of Funds. To the extent that a Fund of Funds purchases Shares in the secondary market, a Fund would still retain its ability to reject any initial investment by a Fund of Funds in excess of the limits of section 12(d)(1)(A) by declining to enter into a FOF Participation Agreement with the Fund of Funds.

*Sections 17(a)(1) and (2) of the Act*

19. Sections 17(a)(1) and (2) of the Act generally prohibit an affiliated person of a registered investment company, or an affiliated person of such a person, from selling any security to or purchasing any security from the company. Section 2(a)(3) of the Act 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 the other person, (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled or held with the power to vote by the other person, and (c) any person directly or indirectly controlling, controlled by or under common control with the other person. Section 2(a)(9) of the Act defines ''control'' as the power to exercise a controlling influence over the management or policies of a company, and provides that a control relationship will be presumed where one person owns more than 25% of a company's voting securities. The Funds may be deemed to be controlled by the Adviser or an entity controlling, controlled by or under common control with the Adviser and hence affiliated persons of each other. In addition, the Funds may be deemed to be under common control with any other registered investment company (or series thereof) advised by an Adviser or an entity controlling, controlled by or under common control with an Adviser (an ''Affiliated Fund''). Any investor, including Market Makers, owning 5% or holding in excess of 25% of the Trust or such Funds, may be deemed affiliated persons of the Trust or such Funds. In addition, an investor could own 5% or more, or in excess of 25% of the outstanding shares of one or more Affiliated Funds making that investor a Second-Tier Affiliate of the Funds.

20. Applicants request an exemption from sections 17(a)(1) and 17(a)(2) of the Act pursuant to sections 6(c) and 17(b) of the Act to permit persons that are Affiliated Persons of the Funds, or Second-Tier Affiliates of the Funds, solely by virtue of one or more of the following: (a) Holding 5% or more, or in excess of 25%, of the outstanding Shares of one or more Funds; (b) an affiliation with a person with an ownership interest described in (a); or (c) holding 5% or more, or more than 25%, of the shares of one or more Affiliated Funds, to effectuate purchases and redemptions ''in-kind.''

21. Applicants assert that no useful purpose would be served by prohibiting such affiliated persons from making ''in-kind'' purchases or ''in-kind'' redemptions of Shares of a Fund in Creation Units. Both the deposit procedures for ''in-kind'' purchases of Creation Units and the redemption procedures for ''in-kind'' redemptions of Creation Units will be effected in exactly the same manner for all purchases and redemptions, regardless of size or number. There will be no discrimination between purchasers or redeemers. Deposit Instruments and Redemption Instruments for each Fund will be valued in the identical manner as those Portfolio Securities currently held by such Fund and the valuation of the Deposit Instruments and Redemption Instruments will be made in an identical manner regardless of the identity of the purchaser or redeemer. Applicants do not believe that ''in-kind'' purchases and redemptions will result in abusive self-dealing or overreaching, but rather assert that such procedures will be implemented consistently with each Fund's objectives and with the general purposes of the Act. Applicants believe that ''in-kind'' purchases and redemptions will be made on terms reasonable to Applicants and any affiliated persons because they will be valued pursuant to verifiable objective standards. The method of valuing Portfolio Securities held by a Fund is identical to that used for calculating ''in-kind'' purchase or redemption values and therefore creates no opportunity for affiliated persons or Second-Tier Affiliates of Applicants to effect a transaction detrimental to the other holders of Shares of that Fund. Similarly, Applicants submit that, by using the same standards for valuing Portfolio Securities held by a Fund as are used for calculating ''in-kind'' redemptions or purchases, the Fund will ensure that its NAV will not be adversely affected by such securities transactions. Applicants also note that the ability to take deposits and make redemptions ''in-kind'' will help each Fund to track closely its Underlying Index and therefore aid in achieving the Fund's objectives.

22. Applicants also seek relief under sections 6(c) and 17(b) from section 17(a) to permit a Fund that is an affiliated person, or an affiliated person of an affiliated person, of a Fund of Funds to sell its Shares to and redeem its Shares from a Fund of Funds, and to engage in the accompanying in-kind

[27] Any references to NASD Conduct Rule 2830 include any successor or replacement FINRA rule to NASD Conduct Rule 2830.

transactions with the Fund of Funds.[28] Applicants state that the terms of the transactions are fair and reasonable and do not involve overreaching. Applicants note that any consideration paid by a Fund of Funds for the purchase or redemption of Shares directly from a Fund will be based on the NAV of the Fund.[29] Applicants believe that any proposed transactions directly between the Funds and Funds of Funds will be consistent with the policies of each Fund of Funds. The purchase of Creation Units by a Fund of Funds directly from a Fund will be accomplished in accordance with the investment restrictions of any such Fund of Funds and will be consistent with the investment policies set forth in the Fund of Funds' registration statement. Applicants also state that the proposed transactions are consistent with the general purposes of the Act and are appropriate in the public interest.

**Applicants' Conditions**

Applicants agree that any order of the Commission granting the requested relief will be subject to the following conditions:

*A. ETF Relief*

1. The requested relief to permit ETF operations will expire on the effective date of any Commission rule under the Act that provides relief permitting the operation of index-based ETFs.

2. As long as a Fund operates in reliance on the requested order, Shares of such Fund will be listed on an Exchange.

3. Neither the Trust nor any Fund will be advertised or marketed as an open-end investment company or a mutual fund. Any advertising material that describes the purchase or sale of Creation Units or refers to redeemability will prominently disclose that Shares are not individually redeemable and that owners of Shares may acquire those Shares from the Fund and tender those Shares for redemption to a Fund in Creation Units only.

4. The Web site, which is and will be publicly accessible at no charge, will contain, on a per Share basis for each Fund, the prior Business Day's NAV and the market closing price or the midpoint of the bid/ask spread at the time of the calculation of such NAV (''Bid/Ask Price''), and a calculation of the premium or discount of the market closing price or Bid/Ask Price against such NAV.

5. Each Self-Indexing Fund, Long/Short Fund and 130/30 Fund will post on the Web site on each Business Day, before commencement of trading of Shares on the Exchange, the Fund's Portfolio Holdings.

6. No Adviser or any Sub-Adviser, directly or indirectly, will cause any Authorized Participant (or any investor on whose behalf an Authorized Participant may transact with the Fund) to acquire any Deposit Instrument for a Fund through a transaction in which the Fund could not engage directly.

*B. Section 12(d)(1) Relief*

1. The members of a Fund of Funds' Advisory Group will not control (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. The members of a Fund of Funds' Sub-Advisory Group will not control (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. If, as a result of a decrease in the outstanding voting securities of a Fund, the Fund of Funds' Advisory Group or the Fund of Funds' Sub-Advisory Group, each in the aggregate, becomes a holder of more than 25 percent of the outstanding voting securities of a Fund, it will vote its Shares of the Fund in the same proportion as the vote of all other holders of the Fund's Shares. This condition does not apply to the Fund of Funds' Sub-Advisory Group with respect to a Fund for which the Fund of Funds' Sub-Adviser or a person controlling, controlled by or under common control with the Fund of Funds' Sub-Adviser acts as the investment adviser within the meaning of section 2(a)(20)(A) of the Act.

2. No Fund of Funds or Fund of Funds Affiliate will cause any existing or potential investment by the Fund of Funds in a Fund to influence the terms of any services or transactions between the Fund of Funds or Fund of Funds Affiliate and the Fund or a Fund Affiliate.

3. The board of directors or trustees of an Investing Management Company, including a majority of the disinterested directors or trustees, will adopt procedures reasonably designed to ensure that the Fund of Funds Adviser and Fund of Funds Sub-Adviser are conducting the investment program of the Investing Management Company without taking into account any consideration received by the Investing Management Company or a Fund of Funds Affiliate from a Fund or Fund Affiliate in connection with any services or transactions.

4. Once an investment by a Fund of Funds in the securities of a Fund exceeds the limits in section 12(d)(1)(A)(i) of the Act, the Board of the Fund, including a majority of the directors or trustees who are not ''interested persons'' within the meaning of Section 2(a)(19) of the Act (''non-interested Board members''), will determine that any consideration paid by the Fund to the Fund of Funds or a Fund of Funds Affiliate in connection with any services or transactions: (i) Is fair and reasonable in relation to the nature and quality of the services and benefits received by the Fund; (ii) is within the range of consideration that the Fund would be required to pay to another unaffiliated entity in connection with the same services or transactions; and (iii) does not involve overreaching on the part of any person concerned. This condition does not apply with respect to any services or transactions between a Fund and its investment adviser(s), or any person controlling, controlled by or under common control with such investment adviser(s).

5. The Fund of Funds Adviser, or trustee or Sponsor of an Investing Trust, as applicable, will waive fees otherwise payable to it by the Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by a Fund under rule 12b–l under the Act) received from a Fund by the Fund of Funds Adviser, or trustee or Sponsor of the Investing Trust, or an affiliated person of the Fund of Funds Adviser, or trustee or Sponsor of the Investing Trust, other than any advisory fees paid to the Fund of Funds Adviser, trustee or Sponsor of an Investing Trust, or its affiliated person by the Fund, in connection with the investment by the Fund of Funds in the Fund. Any Fund of Funds Sub-Adviser will waive fees otherwise payable to the Fund of Funds Sub-Adviser, directly or indirectly, by

[28] Although applicants believe that most Funds of Funds will purchase Shares in the secondary market and will not purchase Creation Units directly from a Fund, a Fund of Funds might seek to transact in Creation Units directly with a Fund that is an affiliated person of a Fund of Funds. To the extent that purchases and sales of Shares occur in the secondary market and not through principal transactions directly between a Fund of Funds and a Fund, relief from Section 17(a) would not be necessary. However, the requested relief would apply to direct sales of Shares in Creation Units by a Fund to a Fund of Funds and redemptions of those Shares. Applicants are not seeking relief from Section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an affiliated person, or an affiliated person of an affiliated person of a Fund of Funds because an Adviser or an entity controlling, controlled by or under common control with an Adviser provides investment advisory services to that Fund of Funds.

[29] Applicants acknowledge that the receipt of compensation by (a) an affiliated person of a Fund of Funds, or an affiliated person of such person, for the purchase by the Fund of Funds of Shares of a Fund or (b) an affiliated person of a Fund, or an affiliated person of such person, for the sale by the Fund of its Shares to a Fund of Funds, may be prohibited by Section 17(e)(1) of the Act. The FOF Participation Agreement also will include this acknowledgment.

the Investing Management Company in an amount at least equal to any compensation received from a Fund by the Fund of Funds Sub-Adviser, or an affiliated person of the Fund of Funds Sub-Adviser, other than any advisory fees paid to the Fund of Funds Sub-Adviser or its affiliated person by the Fund, in connection with the investment by the Investing Management Company in the Fund made at the direction of the Fund of Funds Sub-Adviser. In the event that the Fund of Funds Sub-Adviser waives fees, the benefit of the waiver will be passed through to the Investing Management Company.

6. No Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to a Fund) will cause a Fund to purchase a security in any Affiliated Underwriting.

7. The Board of a Fund, including a majority of the non-interested Board members, will adopt procedures reasonably designed to monitor any purchases of securities by the Fund in an Affiliated Underwriting, once an investment by a Fund of Funds in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, including any purchases made directly from an Underwriting Affiliate. The Board will review these purchases periodically, but no less frequently than annually, to determine whether the purchases were influenced by the investment by the Fund of Funds in the Fund. The Board will consider, among other things: (i) Whether the purchases were consistent with the investment objectives and policies of the Fund; (ii) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (iii) whether the amount of securities purchased by the Fund in Affiliated Underwritings and the amount purchased directly from an Underwriting Affiliate have changed significantly from prior years. The Board will take any appropriate actions based on its review, including, if appropriate, the institution of procedures designed to ensure that purchases of securities in Affiliated Underwritings are in the best interest of shareholders of the Fund.

8. Each Fund will maintain and preserve permanently in an easily accessible place a written copy of the procedures described in the preceding condition, and any modifications to such procedures, and will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any purchase in an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase of securities in Affiliated Underwritings once an investment by a Fund of Funds in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, setting forth from whom the securities were acquired, the identity of the underwriting syndicate's members, the terms of the purchase, and the information or materials upon which the Board's determinations were made.

9. Before investing in a Fund in excess of the limit in section 12(d)(1)(A), a Fund of Funds and the Trust will execute a FOF Participation Agreement stating without limitation that their respective boards of directors or trustees and their investment advisers, or trustee and Sponsor, as applicable, understand the terms and conditions of the order, and agree to fulfill their responsibilities under the order. At the time of its investment in Shares of a Fund in excess of the limit in section 12(d)(1)(A)(i), a Fund of Funds will notify the Fund of the investment. At such time, the Fund of Funds will also transmit to the Fund a list of the names of each Fund of Funds Affiliate and Underwriting Affiliate. The Fund of Funds will notify the Fund of any changes to the list of the names as soon as reasonably practicable after a change occurs. The Fund and the Fund of Funds will maintain and preserve a copy of the order, the FOF Participation Agreement, and the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an easily accessible place.

10. Before approving any advisory contract under section 15 of the Act, the board of directors or trustees of each Investing Management Company including a majority of the disinterested directors or trustees, will find that the advisory fees charged under such contract are based on services provided that will be in addition to, rather than duplicative of, the services provided under the advisory contract(s) of any Fund in which the Investing Management Company may invest. These findings and their basis will be fully recorded in the minute books of the appropriate Investing Management Company.

11. Any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.

12. No Fund will acquire securities of an investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent the Fund acquires securities of another investment company pursuant to exemptive relief from the Commission permitting the Fund to acquire securities of one or more investment companies for short-term cash management purposes.

For the Commission, by the Division of Investment Management, under delegated authority.

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2013–26068 Filed 10–31–13; 8:45 am]

**BILLING CODE 8011–01–P**

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. IC–30769; File No. 812–14020]**

## Medley Capital Corporation, et al.; Notice of Application

October 28, 2013.

**AGENCY:** Securities and Exchange Commission (''Commission'').

**ACTION:** Notice of application for an amended order under sections 57(a)(4) and 57(i) of the Investment Company Act of 1940 (the ''Act'') and rule 17d–1 under the Act to permit certain joint transactions otherwise prohibited by section 57(a)(4) of the Act.

**SUMMARY OF APPLICATION:** Applicants request an amended order to permit certain business development companies (each, a ''BDC'') to co-invest with each other and with certain affiliated investment funds in portfolio companies.

**APPLICANTS:** Medley Capital Corporation (''MCC''); Medley SBIC, LP (''Medley SBIC''); Medley SBIC GP, LLC (the ''SBIC General Partner''); Medley LLC; MCC Advisors LLC (''MCC Advisors''); Medley Capital LLC, MOF II Management LLC, and Medley Credit Strategies LLC (collectively, the ''Existing Affiliated Investment Advisers''); Medley GP LLC, MOF II GP LLC, MOF II GP (Cayman) Ltd., and Medley Credit Strategies GP, LLC (collectively, the ''Existing General Partners''); Medley Opportunity Fund LP, Medley Opportunity Fund Ltd., Medley Opportunity Fund II LP, Medley Opportunity Fund II (Cayman) LP, and Medley Credit Strategies Master LP (collectively, the ''Existing Affiliated Funds''); Sierra Income Corporation (''Sierra''); and SIC Advisors LLC (''SIC Advisors'').

**DATES:** *Filing Dates:* The application was filed on March 29, 2012, and amended on March 30, 2012, August 21, 2012, January 14, 2013, and September 26, 2013.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the requested relief 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 November 22, 2013 and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, 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 St. NE., Washington, DC 20549–1090. Applicants: c/o Brooke Taube, Medley Capital Corporation, and Seth Taube, Sierra Income Corporation, 375 Park Avenue, Suite 3304, New York, NY 10152.

**FOR FURTHER INFORMATION CONTACT:** Jill Ehrlich, Senior Counsel, at (202) 551–6819, or David P. Bartels, Branch Chief, at (202) 551–6821 (Division of Investment Management, Exemptive Applications 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. MCC is an externally managed, non-diversified, closed-end management investment company that has elected to be regulated as a BDC under the Act.[1] MCC's investment objective is to generate current income and capital appreciation by lending directly to privately-held middle market companies. MCC's board of directors (the ''MCC Board'') currently consists of seven members, four of whom are not ''interested persons'' within the meaning of section 2(a)(19) of the Act (the ''Independent Directors''). Each of Andrew Fentress, Brooke Taube, and Seth Taube (the ''Principals'') serves as a director on the MCC Board.

2. Applicants represent that Medley SBIC was organized as a limited partnership under the laws of the state of Delaware and is licensed by the Small Business Administration (''SBA'') to operate under the Small Business Investment Act of 1958, as amended (''SBA Act''), as a small business investment company (each such licensed entity, an ''SBIC Subsidiary''). Applicants state that Medley SBIC will not be registered under the Act based on the exclusion from the definition of investment company contained in section 3(c)(7). The SBIC General Partner was organized as a limited liability company under the laws of the state of Delaware and is the general partner of Medley SBIC. Applicants represent that Medley SBIC is functionally a wholly-owned subsidiary of MCC because MCC and the SBIC General Partner (which is a wholly-owned subsidiary of MCC) own all of the equity and voting interests in Medley SBIC.

3. Sierra is an externally managed, non-diversified, closed-end management investment company that has elected to be regulated as a BDC under the Act. Sierra's investment objective is to generate current income and capital appreciation by investing primarily in the debt of privately-held U.S. companies with a focus on senior secured debt, second lien debt and, to a lesser extent, subordinated debt. Sierra's board of directors (the ''Sierra Board'') currently consists of five members, three of whom are Independent Directors. Two of the Principals, Brook Taube and Seth Taube, serve as interested directors on the Sierra Board.

4. MCC Advisors is registered as an investment adviser under the Investment Advisers Act of 1940 (the ''Advisers Act'') and serves as the investment adviser to MCC. SIC Advisors is registered as an investment adviser under the Advisers Act and serves as the investment adviser to Sierra. The Existing Affiliated Investment Advisers are registered under the Advisers Act and currently serve as investment advisers to the Existing Affiliated Funds. Medley LLC, which is controlled by the Principals, serves as the direct or indirect holding company for MCC Advisors, SIC Advisors, and the Existing Affiliated Investment Advisers (together with any future investment advisers that Medley LLC controls, the ''Affiliated Investment Advisers''). The Existing General Partners are the general partners of certain of the Existing Affiliated Funds. The Existing General Partners are direct, wholly-owned subsidiaries of Medley GP Holdings LLC, which is controlled by the Principals.

5. Each of the Existing Affiliated Funds is a separate legal entity and is excluded from the definition of ''investment company'' under section 3(c)(1) or 3(c)(7) of the Act.

6. Applicants seek to amend the Prior Order[2] to permit a Regulated Entity and one or more other Regulated Entities and/or one or more Affiliated Funds to participate in the same investment opportunities through a proposed co-investment program where such participation would otherwise be prohibited under section 57(a)(4) and rule 17d–1 (the ''Co-Investment Program'').[3] For purposes of the application, a ''Co-Investment Transaction'' means any transaction in which a Regulated Entity (or its Wholly-Owned Investment Sub, as defined below) participated, in reliance on the Amended Order or the Prior Order), (a) together with one or more other Regulated Entities and/or (b) together with one or more Affiliated Funds. A ''Potential Co-Investment Transaction'' means any investment opportunity in which a Regulated Entity (or its Wholly-Owned Investment Sub) could not participate together with one or more Regulated Entities and/or together with one or more Affiliated Funds without obtaining and relying on the Amended Order. Affiliated Funds that have the capacity to, and elect to, co-invest with

[1] Section 2(a)(48) defines a BDC to be any closed-end investment company that operates for the purpose of making investments in securities described in sections 55(a)(1) through 55(a)(3) of the Act and makes available significant managerial assistance with respect to the issuers of such securities.

[2] The requested order (the ''Amended Order'') would supersede an exemptive order issued by the Commission on March 26, 2012 (the ''Prior Order'') that was granted pursuant to sections 57(a)(4) and 57(i) and rule 17d–1, with the result that no person will continue to rely on the Prior Order if the Amended Order is granted. Medley Capital Corporation, et al., Investment Company Act Release Nos. 29967 (Feb. 27, 2012) (notice) and 30009 (Mar. 26, 2012) (order). All existing entities that currently intend to rely on the Amended Order have been named as applicants. Any other existing or future entity that relies on the Amended Order in the future will comply with the terms and conditions of the application.

[3] ''Future Affiliated Funds'' means any entity whose (i) investment adviser is an Affiliated Investment Adviser, (ii) that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act, and (iii) that is not a subsidiary of a Regulated Entity. ''Affiliated Funds'' means the Existing Affiliated Funds and the Future Affiliated Funds. ''Regulated Entity'' means any of (i) MCC, (ii) Sierra, or (iii) any future BDC whose investment adviser is a Regulated Entity Adviser. ''Regulated Entity Advisers'' means (i) MCC Advisors, (ii) SIC Advisors, and (iii) any future investment adviser that Medley LLC controls.

the Regulated Entities are referred to as ''Participating Funds.''

7. Applicants state that a Regulated Entity may, from time to time, form one or more Wholly-Owned Investment Subs.[4] Such a subsidiary would be prohibited from investing in a Co-Investment Transaction with any Affiliated Fund or another Regulated Entity because it would be a company controlled by the Regulated Entity for purposes of section 57(a)(4) and rule 17d–1. Applicants request that each Wholly-Owned Investment Sub be permitted to participate in Co-Investment Transactions in lieu of the Regulated Entity that owns it and that the Wholly-Owned Investment Sub's participation in any such transaction be treated, for purposes of the Amended Order, as though the Regulated Entity were participating directly. Applicants represent that this treatment is justified because a Wholly-Owned Investment Sub would have no purpose other than serving as a holding vehicle for the Regulated Entity's investments and, therefore, no conflicts of interest could arise between the Regulated Entity and the Wholly-Owned Investment Sub. The Regulated Entity's Board would make all relevant determinations under the conditions with regard to a Wholly-Owned Investment Sub's participation in a Co-Investment Transaction, and the Regulated Entity's Board would be informed of, and take into consideration, any proposed use of a Wholly-Owned Investment Sub in the Regulated Entity's place. If the Regulated Entity proposes to participate in the same Co-Investment Transaction with any of its Wholly-Owned Investment Subs, the Board of the Regulated Entity will also be informed of, and take into consideration, the relative participation of the Regulated Entity and the Wholly-Owned Investment Sub.

8. In selecting investments for each Regulated Entity, the Regulated Entity Advisers will consider the investment objective, investment policies, investment position, capital available for investment, and other factors relevant to the respective Regulated Entities they advise. The Regulated Entity Advisers expect that any portfolio company that is an appropriate investment for a Regulated Entity should also be an appropriate investment for one or more other Regulated Entities and/or one or more Affiliated Funds, with certain exceptions based on available capital or diversification.[5] The Regulated Entity Adviser, as applicable, will present each Potential Co-Investment Transaction and the proposed allocation of each investment opportunity to the directors of the relevant Regulated Entity's Board that are eligible to vote under section 57(o) of the Act (the ''Eligible Directors''). The ''required majority,'' as defined in section 57(o) (''Required Majority'') of a Regulated Entity will approve each Co-Investment Transaction prior to any investment by the Regulated Entity.

9. All subsequent activity (i.e., exits or Follow-On Investments, as defined below) in a Co-Investment Transaction will also be made in accordance with the terms and conditions set forth in the application.[6] A Regulated Entity may participate in a pro rata disposition or Follow-On Investment without obtaining prior approval of the Required Majority if, among other things: (i) The proposed participation of each Regulated Entity and Affiliated Fund is proportionate to its outstanding investments in the issuer immediately preceding the disposition or Follow-On Investment, as the case may be; and (ii) the Board of the Regulated Entity has approved that Regulated Entity's participation in pro rata dispositions and Follow-On Investments as being in the best interests of the Regulated Entity. If the Board has not given such approval in advance, any such disposition or Follow-On Investment will be submitted to the Regulated Entity's Eligible Directors. The Board of a Regulated Entity may at any time rescind, suspend or qualify its approval of pro rata dispositions and Follow-On Investments with the result that all dispositions and/or Follow-On Investments must be submitted to the Eligible Directors.

10. Applicants state that none of the Principals will benefit directly or indirectly from any Co-Investment Transaction (other than by virtue of the ownership of securities of MCC and the Affiliated Investment Advisers) or participate individually in any Co-Investment Transaction. In addition, no Independent Director will have any direct or indirect financial interest in any Co-Investment Transaction or any interest in any portfolio company, other than through an interest (if any) in the securities of a Regulated Entity.

**Applicants' Legal Analysis**

1. Section 57(a)(4) of the Act prohibits certain affiliated persons of a BDC from participating in joint transactions with the BDC or a company controlled by such BDC in contravention of rules as prescribed by the Commission. Under section 57(b)(2) of the Act, any person who is directly or indirectly controlling, controlled by, or under common control with a BDC is subject to section 57(a)(4). Applicants submit that each of the Affiliated Funds and the other Regulated Entities could be deemed to be a person related to each Regulated Entity in a manner described by section 57(b) by virtue of being under common control with such Regulated Entity.

2. Section 57(i) of the Act provides that, until the Commission prescribes rules under section 57(a)(4), the Commission's rules under section 17(d) of the Act applicable to registered closed-end investment companies will be deemed to apply to BDCs. Because the Commission has not adopted any rules under section 57(a)(4), rule 17d–1 applies.

3. Section 17(d) of the Act and rule 17d–1 under the Act prohibit affiliated persons of a registered investment company from participating in joint transactions with the company unless the Commission has granted an order permitting such transactions. Rule 17d–1, as made applicable to BDCs by section 57(i), prohibits any person who is related to a BDC in a manner described in section 57(b), acting as principal, from participating in, or effecting any transaction in connection with, any joint enterprise or other joint arrangement or profit-sharing plan in which the BDC or a company controlled by such BDC is a participant, absent an order from the Commission. In passing upon applications under rule 17d–1, the Commission considers whether the participation by the BDC or controlled company in the joint transaction is

[4] The term ''Wholly-Owned Investment Sub'' means an entity (i) that is wholly-owned by a Regulated Entity (with such Regulated Entity at all times holding, beneficially and of record, 100% of the voting and economic interests), (ii) whose sole business purpose is to hold one or more investments on behalf of such Regulated Entity (and, in the case of an SBIC Subsidiary, maintain a license under the SBA Act and issue debentures guaranteed by the SBA); (iii) with respect to which the Regulated Entity's board of directors (''Board'') has the sole authority to make all determinations with respect to the entity's participation under the conditions of the application; and (iv) that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act. All subsidiaries participating in the Co-Investment Program will be Wholly-Owned Investment Subs and will have Objectives and Strategies (as defined below) that are either substantially the same as, or a subset of, their parent Regulated Entity's Objectives and Strategies. An SBIC Subsidiary may be a Wholly-Owned Investment Sub if it satisfies the conditions in this definition.

[5] The Regulated Entities, however, will not be obligated to invest, or co-invest, when investment opportunities are referred to them.

[6] ''Follow-On Investments'' means additional investments in securities of issuers, including through the exercise of warrants, conversion privileges, and other rights to purchase securities of the issuers.

consistent with the provisions, policies, and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

4. Applicants state that they expect that co-investment in portfolio companies by the Regulated Entities and the Affiliated Funds will increase the number of favorable investment opportunities for the Regulated Entities and that the Co-Investment Program will be implemented only if the Required Majority of the applicable Regulated Entity approves it.

5. Applicants submit that the Required Majority's approval of each Co-Investment Transaction before investment, and other protective conditions set forth in the application, will ensure that the applicable Regulated Entity will be treated fairly. Applicants state that the Regulated Entities' participation in the Co-Investment Transactions will be consistent with the provisions, policies, and purposes of the Act and on a basis that is not different from or less advantageous than that of other participants.

6. Under condition 14, if the Regulated Entity Advisers or the Principals, or any person controlling, controlled by, or under common control with the Regulated Entity Advisers or the Principals, and the Affiliated Funds (collectively, the ''Holders'') own in the aggregate more than 25% of the outstanding voting securities of a Regulated Entity (''Shares''), then the Holders will vote such Shares as directed by an independent third party when voting on matters specified in the condition. Applicants believe that this condition will ensure that the Independent Directors will act independently in evaluating the Co-Investment Program, because the ability of the Regulated Entity Advisers or the Principals to influence the Independent Directors by a suggestion, explicit or implied, that the Independent Directors can be removed will be limited significantly. Applicants represent that the Independent Directors will evaluate and approve any such voting trust or proxy adviser, taking into accounts its qualifications, reputation for independence, cost to the shareholders, and other factors that they deem relevant.

**Applicants' Conditions**

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Each time a Regulated Entity Adviser or an Affiliated Investment Adviser considers a Potential Co-Investment Transaction for an Affiliated Fund or another Regulated Entity that falls within the then-current Objectives and Strategies of a Regulated Entity,[7] the appropriate Regulated Entity Adviser will make an independent determination of the appropriateness of the investment for the Regulated Entity in light of the Regulated Entity's then-current circumstances.

2. (a) If a Regulated Entity Adviser deems a Regulated Entity's participation in any Potential Co-Investment Transaction to be appropriate for such Regulated Entity, it will then determine an appropriate level of investment for such Regulated Entity.

(b) If the aggregate amount recommended by Regulated Entity Advisers to be invested by the Regulated Entities in such Potential Co-Investment Transaction, together with the amount proposed to be invested by each Participating Fund, collectively, in the same transaction, exceeds the amount of the investment opportunity, the amount proposed to be invested by each such party will be allocated among them pro rata based on each participating party's capital available for investment in the asset class being allocated, up to the amount proposed to be invested by each. The Regulated Entity Advisers will provide the respective Eligible Directors with information concerning each party's available capital to assist the Eligible Directors with their review of such Regulated Entity's investments for compliance with these allocation procedures.

(c) After making the determinations required in conditions 1 and 2(a), the Regulated Entity Advisers will distribute written information concerning the Potential Co-Investment Transaction, including the amount proposed to be invested by each Regulated Entity and any Participating Fund, to the Eligible Directors of the each participating Regulated Entity for their consideration. A Regulated Entity will co-invest with another Regulated Entity and/or any Participating Fund only if, prior to participating in the Potential Co-Investment Transaction, a Required Majority of the Regulated Entity concludes that:

(i) The terms of the transaction, including the consideration to be paid, are reasonable and fair to the Regulated Entity and its stockholders and do not involve overreaching in respect of the Regulated Entity or its stockholders on the part of any person concerned;

(ii) the transaction is consistent with

(A) the interests of the Regulated Entity's stockholders; and

(B) the Regulated Entity's then-current Objectives and Strategies.

(iii) the investment by another Regulated Entity or one or more Participating Funds would not disadvantage the Regulated Entity, and participation by such Regulated Entity is not on a basis different from or less advantageous than that of any Participating Fund or other Regulated Entity; provided that, if any Participating Fund or other Regulated Entity, but not the Regulated Entity itself, gains the right to nominate a director for election to a portfolio company's board of directors or the right to have a board observer or any similar right to participate in the governance or management of the portfolio company, such event shall not be interpreted to prohibit the Required Majority from reaching the conclusions required by this condition (2)(c)(iii), if

(A) the Eligible Directors shall have the right to ratify the selection of such director or board observer, if any;

(B) the Regulated Entity Adviser agrees to, and does, provide periodic reports to the Board of the applicable Regulated Entity with respect to the actions of such director or the information received by such board observer or obtained through the exercise of any similar right to participate in the governance or management of the portfolio company; and

(C) any fees or other compensation that any other Regulated Entity or any Participating Fund or any affiliated person of either receives in connection with the right of a Participating Fund or other Regulated Entity to nominate a director or appoint a board observer or otherwise to participate in the governance or management of the portfolio company will be shared proportionately among any Participating Funds (who may, in turn, share their portion with their affiliated persons) and the participating Regulated Entities in accordance with the amount of each party's investment; and

(iv) the proposed investment by the Regulated Entity will not benefit the Regulated Entity Advisers, the Affiliated Funds or other Regulated Entities, or any affiliated person of any of them (other than the other parties to the Co-Investment Transaction), except (a) to the extent permitted by condition 13; (b) to the extent permitted by sections 17(e)

[7] ''Objectives and Strategies'' means the Regulated Entity's investment objectives and strategies, as described in the Regulated Entity's registration statement on Form N–2, other filings the Regulated Entity has made with the Commission under the Securities Act of 1933, as amended (the ''1933 Act''), or under the Securities Exchange Act of 1934, as amended, and the Regulated Entity's reports to stockholders.

or 57(k), as applicable; (c) indirectly, as a result of an interest in securities issued by one of the parties to the Co-Investment Transaction; or (d) in the case of fees or other compensation described in condition 2(c)(iii)(C).

3. Each Regulated Entity has the right to decline to participate in any Potential Co-Investment Transaction or to invest less than the amount proposed.

4. The Regulated Entity Advisers will present to the Board of each Regulated Entity, as applicable, on a quarterly basis, a record of all investments in Potential Co-Investment Transactions made by the Affiliated Funds and other Regulated Entities during the preceding quarter that fell within the Regulated Entity's then-current Objectives and Strategies that were not made available to the respective Regulated Entity, and an explanation of why the investment opportunities were not offered to the Regulated Entity. All information presented to the Board pursuant to this condition will be kept for the life of the Regulated Entity and at least two years thereafter, and will be subject to examination by the Commission and its staff.

5. Except for Follow-On Investments made pursuant to condition 8 below, a Regulated Entity will not invest in reliance on the Amended Order in any portfolio company in which any other Regulated Entity, any Affiliated Fund, or any affiliated person of any other Regulated Entity or Affiliated Fund is an existing investor.

6. A Regulated Entity will not participate in any Potential Co-Investment Transaction unless the terms, conditions, price, class of securities to be purchased, settlement date and registration rights will be the same for such Regulated Entity as for the Participating Funds and/or other Regulated Entities. The grant to an Affiliated Fund or another Regulated Entity, but not such Regulated Entity, of the right to nominate a director for election to a portfolio company's board of directors, the right to have an observer on the board of directors or similar rights to participate in the governance or management of the portfolio company will not be interpreted so as to violate this condition 6, if conditions 2(c)(iii)(A), (B) and (C) are met.

7. (a) If any Regulated Entity or Participating Fund elects to sell, exchange, or otherwise dispose of an interest in a security that was acquired in a Co-Investment Transaction, then:

(i) The investment adviser to such Regulated Entity or Participating Fund will notify each other Regulated Entity that participated in the Co-Investment Transaction of the proposed disposition at the earliest practical time; and

(ii) the investment adviser to each other Regulated Entity that participated in the Co-Investment Transaction will formulate a recommendation as to participation by such Regulated Entity in the disposition.

(b) Each Regulated Entity will have the right to participate in such disposition on a proportionate basis, at the same price and on the same terms and conditions as those applicable to any Participating Funds and any other Regulated Entities.

(c) A Regulated Entity may participate in such disposition without obtaining prior approval of the Required Majority if: (i) The proposed participation of each Regulated Entity and the Participating Funds in such disposition is proportionate to its outstanding investments in the issuer immediately preceding the disposition; (ii) the Board of the applicable Regulated Entity has approved as being in the best interests of the applicable Regulated Entity the ability to participate in such dispositions on a pro rata basis (as described in greater detail in the application); and (iii) the Board of the applicable Regulated Entity is provided on a quarterly basis with a list of all dispositions made in accordance with this condition. In all other cases, the applicable Regulated Entity Adviser will provide its written recommendation as to such Regulated Entity's participation to the Eligible Directors, and such Regulated Entity will participate in such disposition solely to the extent that a Required Majority determines that it is in such Regulated Entity's best interests.

(d) Each Regulated Entity and each of the Participating Funds will bear its own expenses in connection with any such disposition.

8. (a) If any Regulated Entity or Participating Fund desires to make a Follow-On Investment in a portfolio company whose securities were acquired in a Co-Investment Transaction, then:

(i) The investment adviser to such Regulated Entity or Participating Fund will notify each other Regulated Entity that participated in the Co-Investment Transaction of the proposed transaction at the earliest practical time; and

(ii) the investment adviser to each other Regulated Entity that participated in the Co-Investment Transaction will formulate a recommendation as to the proposed participation, including the amount of the proposed investment, by such Regulated Entity.

(b) A Regulated Entity may participate in such Follow-On Investment without obtaining prior approval of the Required Majority if: (i) The proposed participation of each Regulated Entity and Participating Fund in such investment is proportionate to its outstanding investments in the issuer immediately preceding the Follow-On Investment; (ii) the Board of the applicable Regulated Entity has approved as being in the best interests of such Regulated Entity the ability to participate in Follow-On Investments on a pro rata basis (as described in greater detail in the application); and (iii) the Board of the applicable Regulated Entity is provided on a quarterly basis with a list of all Follow-On Investments made in accordance with this condition. In all other cases, the applicable Regulated Entity Adviser will provide its written recommendation as to such Regulated Entity's participation to the Eligible Directors, and such Regulated Entity will participate in such follow-on investment solely to the extent that a Required Majority determines that it is in such Regulated Entity's best interests.

(c) If, with respect to any follow-on investment:

(i) The amount of the opportunity is not based on the Regulated Entities' and the Participating Funds' outstanding investments immediately preceding the follow-on investment; and

(ii) the aggregate amount recommended by the applicable Regulated Entity Adviser to be invested by each Regulated Entity in such Co-Investment Transaction, together with the amount proposed to be invested by the Participating Funds and/or other Regulated Entity, collectively, in the same transaction, exceeds the amount of the investment opportunity, then the amount to be invested by each such party will be allocated among them pro rata based on each party's capital available for investment in the asset class being allocated, up to the amount proposed to be invested by each.

(d) The acquisition of Follow-On Investments as permitted by this condition will be considered a Co-Investment Transaction for all purposes and be subject to the other conditions set forth in the application.

9. The Independent Directors of each Regulated Entity will be provided quarterly for review all information concerning Potential Co-Investment Transactions and Co-Investment Transactions, including investments made by other Regulated Entities or Affiliated Funds that the Regulated Entity considered but declined to participate in, so that the Independent Directors may determine whether all investments made during the preceding quarter, including those investments that the Regulated Entity considered but

declined to participate in, comply with the conditions of the Amended Order. In addition, the Independent Directors will consider at least annually the continued appropriateness for the Regulated Entities of participating in new and existing Co-Investment Transactions.

10. Each Regulated Entity will maintain the records required by section 57(f)(3) as if each of the Regulated Entities were a BDC and each of the investments permitted under these conditions were approved by the Required Majority under section 57(f).

11. No Independent Director of a Regulated Entity will also be a director, general partner, managing member or principal, or otherwise an ''affiliated person'' (as defined in the Act) of, any of the Affiliated Funds.

12. The expenses, if any, associated with acquiring, holding or disposing of any securities acquired in a Co-Investment Transaction (including, without limitation, the expenses of the distribution of any such securities registered for sale under the 1933 Act) shall, to the extent not payable by the Regulated Entity Advisers or the Affiliated Investment Advisers under their respective investment advisory agreements with the Regulated Entities and the Participating Funds, be shared by the applicable Regulated Entities and the Participating Funds in proportion to the relative amounts of their securities held or being acquired or disposed of, as the case may be.

13. Any transaction fee (including break-up or commitment fees but excluding brokers' fees contemplated by section 57(k)(2) or 17(e)(2), as applicable) received in connection with a Co-Investment Transaction will be distributed to the applicable Regulated Entities and the Participating Funds on a pro rata basis based on the amounts each invested or committed, as the case may be, in such Co-Investment Transaction. If any transaction fee is to be held by a Regulated Entity Adviser or an Affiliated Investment Adviser pending consummation of the transaction, the fee will be deposited into an account maintained by the Regulated Entity Adviser or such other adviser, as the case may be, at a bank or banks having the qualifications prescribed in section 26(a)(1), and the account will earn a competitive rate of interest that will also be divided pro rata among each applicable Regulated Entity and each Participating Fund based on the amount each invests in such Co-Investment Transaction. None of the Affiliated Funds, Regulated Entity Advisers, Affiliated Investment Advisers, or any affiliated person of any of the Regulated Entities will receive additional compensation or remuneration of any kind (other than (a) in the case of the Regulated Entities and the Participating Funds, the pro rata transaction fees described above and fees or other compensation described in condition 2(c)(iii)(C) and (b) in the case of the Regulated Entity Advisers and the Affiliated Advisers, investment advisory fees paid in accordance with the Regulated Entities' and Affiliated Funds' governing agreements) as a result of or in connection with a Co-Investment Transaction.

14. If the Regulated Entity Advisers, the Principals, any person controlling, controlled by, or under common control with the Regulated Entity Advisers or the Principals, and the Affiliated Funds (collectively, the ''Holders'') own in the aggregate more than 25% of the outstanding voting securities of a Regulated Entity (''Shares''), then the Holders will vote such Shares as directed by an independent third party (such as the trustee of a voting trust or a proxy adviser) when voting on (1) the election of directors; (2) the removal of one or more directors; or (3) any matters requiring approval by the vote of a majority of the outstanding voting securities, as defined in section 2(a)(42).

15. The Regulated Entity Advisers and the Affiliated Investment Advisers will maintain written policies and procedures reasonably designed to ensure compliance with the foregoing conditions. These policies and procedures will require, among other things, that each Regulated Entity Adviser will be notified of all Potential Co-Investment Transactions that fall within the then-current Objectives and Strategies of any Regulated Entity it advises and will be given sufficient information to make its independent determination and recommendations under conditions 1, 2(a), 7 and 8.

For the Commission, by the Division of Investment Management, under delegated authority.

**Kevin M. O'Neill,**

*Deputy Secretary.*

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**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–70764; File No. 4–443]**

## Joint Industry Plan; Notice of Filing and Immediate Effectiveness of Amendment to the Plan for the Purpose of Developing and Implementing Procedures Designed To Facilitate the Listing and Trading of Standardized Options To Add Miami International Securities Exchange, LLC (''MIAX'') as a Plan Sponsor

October 28, 2013.

Pursuant to Section 11A(a)(3) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 608 thereunder,[2] notice is hereby given that on December 6, 2012, Miami International Securities Exchange, LLC (''MIAX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') an amendment to the Plan for the Purpose of Developing and Implementing Procedures Designed to Facilitate the Listing and Trading of Standardized Options (''OLPP'').[3] The amendment proposes to add MIAX as a Sponsor of the OLPP. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Description and Purpose of the Amendment

The current Sponsors of the OLPP are BATS, BOX, BX, CBOE, C2, ISE, Nasdaq, NYSE Amex, NYSE Arca, OCC, and Phlx. The proposed amendment to the OLPP would add MIAX as a Sponsor of the OLPP. A national securities

[1] 15 U.S.C. 78k–1(a)(3).

[2] 17 CFR 242.608.

[3] On July 6, 2001, the Commission approved the OLPP, which was proposed by the American Stock Exchange LLC (''Amex''), Chicago Board Options Exchange, Incorporated (''CBOE''), International Securities Exchange LLC (''ISE''), Options Clearing Corporation (''OCC''), Philadelphia Stock Exchange, Inc. (''Phlx''), and Pacific Exchange, Inc. (''PCX'') (n/k/a NYSE Arca). *See* Securities Exchange Act Release No. 44521, 66 FR 36809 (July 13, 2001). On February 5, 2004, Boston Stock Exchange, Inc. (''BSE'') was added as a Sponsor to OLPP. *See* Securities Exchange Act Release No. 49199, 69 FR 7030 (February 12, 2004). On March 21, 2008, the Nasdaq Stock Market, LLC (''Nasdaq'') was added as a Sponsor to the OLPP. *See* Securities Exchange Act Release No. 57546, 73 FR 16393 (March 27, 2008). On February 17, 2010, BATS Exchange, Inc. (''BATS'') was added as a Sponsor to the OLPP. *See* Securities Exchange Act Release No. 61528, 75 FR 8415 (February 24, 2010). On October 22, 2010, C2 Options Exchange Incorporated (''C2'') was added as a Sponsor to the OLPP. *See* Securities Exchange Act Release No. 63162, 75 FR 66401 (October 28, 2010). On May 9, 2012, BOX Options Exchange LLC (''BOX'') was added as a Sponsor to the OLPP. *See* Securities Exchange Act Release No. 66952, 77 FR 28641 (May 15, 2012). On June 29, 2012, Nasdaq OMX BX, Inc. was added as a Sponsor to the OLPP. *See* Securities Exchange Act Release No. 67327, 77 FR 40125 (July 6, 2012) (''BX'').

exchange may become a Sponsor if it satisfies the requirement of Section 7 of the OLPP. Specifically an Eligible Exchange [4] may become a Sponsor of the OLPP by: (i) Executing a copy of the OLPP, as then in effect; (ii) providing each current Plan Sponsor with a copy of such executed Plan; and (iii) effecting an amendment to the OLPP, as specified in Section 7(ii) of the OLPP.

Section 7(ii) of the OLPP sets forth the process by which an Eligible Exchange may effect an amendment to the OLPP. Specifically, an Eligible Exchange must: (a) Execute a copy of the OLPP with the only change being the addition of the new sponsor's name in Section 8 of the OLPP; [5] and (b) submit the executed OLPP to the Commission. The OLPP then provides that such an amendment will be effective at the later of either the amendment being approved by the Commission or otherwise becoming effective pursuant to Section 11A of the Act. MIAX has submitted a signed copy of the OLPP to the Commission and to each Plan Sponsor in accordance with the procedures set forth in the OLPP regarding new Plan Sponsors.

## II. Effectiveness of the Proposed Linkage Plan Amendment

The foregoing proposed OLPP amendment has become effective pursuant to Rule 608(b)(3)(iii) [6] because it involves solely technical or ministerial matters. At any time within sixty days of the filing of this amendment, the Commission may summarily abrogate the amendment and require that it be refiled pursuant to paragraphs (a)(1) of Rule 608,[7] if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system or otherwise in furtherance of the purposes of the Act.

## III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed amendment 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 4–443 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number 4–443. 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 MIAX's principal office. 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 No. 4–443 and should be submitted on or before November 22, 2013.

By the Commission.

**Kevin M. O'Neill,**

*Deputy Secretary.*

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[4] The OLPP defines an ''Eligible Exchange'' as a national securities exchange registered with the Commission pursuant to Section 6(a) of the Exchange Act, 15 U.S.C. 78f(a), that (1) has effective rules for the trading of options contracts issued and cleared by the OCC approved in accordance with the provisions of the Exchange Act and the rules and regulations thereunder and (2) is a party to the Plan for Reporting Consolidated Options Last Sale Reports and Quotation Information (the ''OPRA Plan''). MIAX has represented that it has met both the requirements for being considered an Eligible Exchange.

[5] The Commission notes that the list of plan sponsors is set forth in Section 9 of the OLPP.

[6] 17 CFR 242.608(b)(3)(iii).

[7] 17 CFR 242.608(a)(1).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–70761; File No. SR–Topaz–2013–09]**

## Self-Regulatory Organizations; Topaz Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Schedule of Fees

October 28, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 22, 2013, the Topaz Exchange, LLC (d/b/a ISE Gemini) (the ''Exchange'' or ''Topaz'') filed with the Securities and Exchange Commission the proposed rule change, as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Topaz is proposing to amend its Schedule of Fees to adopt a continuing education fee for Series 56 registered persons. The text of the proposed rule change is available on the Exchange's Internet Web site at *http://www.ise.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The 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 purpose of the proposed rule change is to amend the Schedule of Fees to adopt a fee for a new continuing

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

education program, the S501,[3] which is required for persons who are registered as Proprietary Traders (*i.e.* Series 56) and do not maintain any other registration.[4]

The S501 addresses the continuing education of Proprietary Traders, based on the content outline for the Series 56 exam, which covers the main categories of rules and regulations generally applicable to such persons. These generally include recordkeeping and recording requirements, types and characteristics of securities and investments, trading practices and display execution and trading systems. Each Proprietary Trader required to take the S501 must complete the continuing education program within 120 days after their [sic] second registration anniversary date, and every three years thereafter or as otherwise prescribed by the Exchange.

The Exchange proposes to adopt a $60 fee for the S501 continuing education program, which will be used for the administration of the S501. The Financial Industry Regulatory Authority (''FINRA'') administers this program on behalf of the exchanges and therefore the fees are payable directly to FINRA. The Exchange expects that the other exchanges that recognize the Proprietary Trader registration either have or will adopt the same fee for continuing education.[5]

The Exchange's Schedule of Fees does not currently set forth the session fees for other continuing education programs required by the Exchange because these programs are within the jurisdiction of FINRA, which collects these session fees from its members. The Series 56, however, applies to Topaz Members that are not required by Section 15(b)(8) of the Act[6] to become members of FINRA. Therefore, the Exchange believes it is appropriate to include the Series 56 continuing education fee within the Exchange's Schedule of Fees to make the cost of this program clear to Topaz Members.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(4) of the Act,[8] in particular, in that it provides for an equitable allocation of reasonable fees and other charges among Exchange Members and other persons using its facilities. The proposed fee is equitable and not unfairly discriminatory, because it applies equally to all persons registered solely as Proprietary Traders. The Exchange notes that it will not invoice or collect funds from Members that are subject to these fees because these fees will be paid directly to FINRA as administrator of the continuing education program. The proposed fees are reasonably designed to allow FINRA to cover its cost of administering the Series 56 continuing education program on behalf of the Exchange, and the Exchange believes it is reasonable and equitable to include these fees in its Schedule of Fees to make the costs of the Series 56 continuing education program clear to Members. Moreover, the Exchange believes other exchanges will be assessing the same fees for this continuing education program.[9]

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will affect intermarket competition because all of the exchanges that recognize the Proprietary Trader registration category are expected to adopt the same continuing education fee.[10] Furthermore, the Exchange does not believe the proposed rule change will affect intramarket competition because all Proprietary Traders required to complete the new S501 continuing education program will pay the same continuing education fee.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[11] and subparagraph (f)(2) of Rule 19b–4 thereunder,[12] because it establishes a due, fee, or other charge imposed by Topaz.

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 to determine whether the proposed rule should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–Topaz–2013–09 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Topaz–2013–09. 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

[3] *See* Securities Exchange Act Release No. 70417 (September 16, 2013), 78 FR 57907 (September 20, 2013) (SR–ISE–2013–48). ISE Rule 604, which specifies the continuing education requirements for registered persons, including Series 56 registered Proprietary Traders, is incorporated by reference into Chapter 6 of Topaz Rules.

[4] Individuals that are registered under any other registration are required to maintain the continuing education obligations associated with such registrations. For example, an individual that engages solely in proprietary trading activities but has passed the Series 7 and is registered as a General Securities Representative will be required to continue taking the Series 7 continuing education program (S101). *Id.*

[5] *See e.g.* Securities Exchange Act Release Nos. 70257 (August 26, 2013), 78 FR 53814 (August 30, 2013) (SR–BATS–2013–047); 70064 (July 30, 2013), 78 FR 47469 (August 5, 2013) (SR–CBOE–2013–078); 70194 (August 14, 2013) 78 FR 51259 (August 20, 2013) (SR–C2–2013–030); 70327 (September 5, 2013), 78 FR 55766 (September 11, 2013) (SR–Phlx–2013–85).

[6] 15 U.S.C. 78o(b)(8).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4).

[9] *See supra* notes 3 and 5.

[10] *Id.*

[11] 15 U.S.C. 78s(b)(3)(A)(ii).

[12] 17 CFR 240.19b–4(f)(2).

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–Topaz–2013–09 and should be submitted on or before November 22, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2013–26033 Filed 10–31–13; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–70760; File No. SR–NYSEMKT–2013–85]**

## Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 980NY to Specify That the Specialist Pool and Directed Order Market Makers Receive Execution Allocations of Incoming Electronic Complex Orders and Complex Order Auction Eligible Orders in Accordance With the Guaranteed Participation Provision of Rule 964NY(c)(2)(B), Without Any Exceptions

October 28, 2013.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on October 24, 2013, NYSE MKT LLC (the ''Exchange'') 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 Rule 980NY to specify that the Specialist Pool and Directed Order Market Makers receive execution allocations of incoming Electronic Complex Orders and Complex Order Auction (''COA'') eligible orders in accordance with the guaranteed participation provision of Rule 964NY(c)(2)(B), without any exceptions. 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 is proposing to amend Rules 980NY(c)(i), (c)(iii), (e)(6)(A), and (e)(6)(D) to specify that the Specialist Pool and Directed Order Market Makers receive execution allocations of the individual components of a legged out incoming Electronic Complex Order or COA-eligible order in accordance with the guaranteed participation provision of Rule 964NY(c)(2)(B), without any exceptions. Exchange systems currently provide the Specialist Pool with such guaranteed participations when Electronic Complex Orders are legged out to trade with individual quotes and orders in the leg markets that include bids or offers from the Specialist Pool. Directed Order Market Makers, however, do not currently receive guaranteed participation with respect to Electronic Complex Orders. As proposed, an Electronic Complex Order that is marked as a Directed Order may execute against Directed Order Market Makers if it legs out to trade with individual quotes and orders in the leg markets and there is a Directed Order Market Maker quoting in one or more of the leg markets.

Rule 980NY governs trading of ''Electronic Complex Orders,'' as that term is defined in Rule 900.3NY(e).[4] Rule 980NY(c)(i) currently provides that Electronic Complex Orders accepted in the Exchange's Complex Matching Engine (''CME'')[5] are executed automatically against other Electronic Complex Orders in the Consolidated Book,[6] unless individual orders or quotes in the Consolidated Book can execute against incoming Electronic Complex Orders, subject to specified conditions, in which case such individual orders and quotes have priority. Rule 980NY(c)(iii) currently provides that ATP Holders can view Electronic Complex Orders in the Consolidated Book via an electronic interface and may submit Electronic Complex Orders to the CME to trade against orders in the Consolidated Book.

Rule 980NY(e) governs the COA process, and specifically, Rule 980(e)(6) governs the execution of COA-eligible orders.[7] Upon receiving a COA-eligible order and a request by the ATP Holder representing the order that an auction be initiated, the Exchange sends an automated request for responses

[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] Rule 900.3NY(e) defines an Electronic Complex Order as ''any order involving the simultaneous purchase and/or sale of two or more different option series in the same underlying security, for the same account, in a ratio that is equal to or greater than one-to-three (.333) and less than or equal to three-to-one (3.00) and for the purpose of executing a particular investment strategy.''

[5] Rule 980NY(a) defines the CME as ''the mechanism in which Electronic Complex Orders are executed against each other or against individual quotes and orders in the Consolidated Book.''

[6] Rule 900.2NY(14) defines the Consolidated Book as ''the Exchange's electronic book of limit orders for the accounts of Customers and broker-dealers, and Quotes with Size. All orders and Quotes with Size that are entered into the Book will be ranked and maintained in accordance with the rules of priority as provided in Rule 964NY.''

[7] Rule 980NY(e)(1) defines a COA-eligible order as ''an Electronic Complex Order that, as determined by the Exchange on a class-by-class basis, is eligible for a COA considering the order's marketability (defined as a number of ticks away from the current market), size, number of series, and complex order origin types (*i.e.,* Customers, broker-dealers that are not Market-Makers or specialists on an options exchange, and/or Market-Makers or specialists on an options exchange).''

(''RFR'') message to ATP Holders with an interface connection to the Exchange that have elected to receive such RFR messages. Market Makers with an appointment in the relevant options class, and ATP Holders acting as agent for orders resting at the top of the Consolidated Book in the relevant options series may electronically submit responses (''RFR Responses''), and modify, but not withdraw, the RFR response at anytime during the request response time interval (the ''Response Time Interval''). When the Response Time Interval expires, the COA-eligible order is executed and allocated to the extent it is marketable, or routed to the Consolidated Book to the extent it is not marketable.

Rule 980NY(e)(6) provides that COA-eligible orders are executed against the best priced contra-side interest, and provides an allocation process for orders at the same net price. Rule 980NY(e)(6)(A) currently provides that individual orders and quotes in the leg markets resting in the Consolidated Book prior to the initiation of a COA will have first priority to trade against a COA-eligible order, provided the COA-eligible order can be executed in full (or in a permissible ratio) by the orders and quotes in the Consolidated Book.[8] Rule 980NY(e)(6)(D) currently provides that individual orders and quotes in the leg markets that cause the derived Complex Best Bid/Offer to be improved during the COA and match the best RFR Response and/or Electronic Complex Orders received during the Response Time Interval will be filled after Electronic Complex Orders and RFR Responses at the same net price. Allocations to individual orders or quotes in the leg markets that cause the derived BBO to be improved occur on a Customer/order/size pro rata basis.

Under Rules 980NY(c)(i) and (c)(iii), incoming orders or quotes, or those residing in the Consolidated Book, that execute against Electronic Complex Orders are allocated pursuant to Rule 964NY.[9] Additionally, under Rules 980NY(e)(6)(A) and (e)(6)(D), individual orders or quotes residing in the Consolidated Book that execute against a COA-eligible order are allocated pursuant to Rule 964NY. Rule 964NY(c)(2)(B) grants the Specialist Pool and Directed Order Market Makers guaranteed participation after Customer interest is filled, which means that if the Specialist Pool or Directed Order Market Maker is quoting at a price equal to the National Best Bid or Offer (''NBBO'') in an option series that the Specialist Pool or Directed Order Market Maker is assigned, incoming bids and offers in that series will, depending on order ranking provisions of Rule 964NY, be matched against the Specialist Pool's or Directed Order Market Makers' quotes, up to specified thresholds.[10] Currently, Rules 980NY(c)(i), (c)(iii), (e)(6)(A), and (e)(6)(D) provide that the Specialist Pool and Directed Order Market Maker guaranteed participation afforded in Rule 964NY(c)(2)(B) will not apply to executions against an Electronic Complex Order or a COA-eligible order. However, Exchange systems do apply the Specialist Pool guaranteed participation afforded in Rule 964NY(c)(2)(B) to Electronic Complex Orders and COA-eligible orders that execute against individual quotes and orders in the Consolidated Book.

The Exchange is proposing to amend Rules 980NY(c)(i), (c)(iii), (e)(6)(A), and (e)(6)(D) to specify that both the Specialist Pool and Directed Order Market Makers receive execution allocations of incoming Electronic Complex Orders and COA-eligible orders in accordance with the guaranteed participation provision of Rule 964NY(c)(2)(B), without any exceptions. The proposed change would codify existing processing of Electronic Complex Orders that leg out to the individual markets and how they may interact with the Specialist Pool in the individual markets. In addition, the proposed change would add the ability to designate an Electronic Complex Orders as a Directed Order. As proposed, the Directed Order instructions for an Electronic Complex Order would only be applicable if the Electronic Complex Order legs out to the individual markets and a Directed Order Market Maker is quoting in one or more of those markets. The proposed change does not provide for a Direct Order program for Electronic Complex Orders that trade with other Electronic Complex Orders.[11]

The Exchange notes that under the proposed amendment to Rule 980NY(c)(iii), the execution of an Electronic Complex Order against another Electronic Complex Order in the Consolidated Book would not result in a guaranteed participation for a Specialist or Directed Order Market Maker. Rather, the guaranteed participation provision of that rule is only applicable if an Electronic Complex Order legs out individual components to trade with the quotes of a Specialist or Directed Order Market Maker. Consequently, the individual options components of an Electronic Complex Order, and not the Electronic Complex Order itself, may be designated as Directed Orders. The guaranteed participation associated with the allocation of Directed Orders will, therefore, only be available where the Electronic Complex Order legs out individual components to trade with the quotes of a Directed Order Market Maker that meets its quoting obligations, as discussed in more detail below.

The Exchange believes that it is appropriate to provide Specialists and Directed Order Market Makers with guaranteed participation in relation to execution allocations of the individual components of an Electronic Complex Order. The guaranteed participation strikes a reasonable balance between rewarding certain participants for making markets (in the case of Specialists) or bringing liquidity to the Exchange (in the case of Directed Order Market Makers), and providing other market participants an incentive to quote aggressively.[12] Although Exchange rules did not originally afford the Specialist Pool and Directed Order Market Makers any guaranteed participation when an Electronic Complex Order executes against the individual leg markets, the Exchange believes that permitting such guaranteed participation will further incentivize the provision of liquidity that is aggressively priced. Therefore, the Exchange believes it is reasonable to provide the Specialist Pool and Directed Order Market Makers with guaranteed participations whether the contra-side

[8] Allocations to individual orders and quotes in the leg markets in the Consolidated Book occur in time, with Customer orders having priority ahead of non-customer orders and quotes at the same price.

[9] The Exchange proposes a technical, non-substantive amendment to Rule 964NY(c)(2)(B) to change the cross-reference from Rule 964NY(a) to Rule 964NY(b).

[10] Rule 900.3NY(s) defines a ''Directed Order'' as ''any marketable order to buy or sell which has been directed to a particular Market Maker by an Order Flow Provider. To qualify as a Directed Order, an order must be delivered electronically to the System.'' An incoming order marked as a ''Directed Order'' is matched against the quotes of ''Directed Order Market Makers'' under Rule 964NY(b)(2)(B).

[11] The Exchange will announce, via Trader Update, the allocation process that applies when an Electronic Complex Order legs out to the individual markets and the implementation date of the proposed change to designate an Electronic Complex Order as a Directed Order.

[12] *See* Exchange Act Release No. 59472 (Feb. 27, 2009), 74 FR 9843, 9847 (Mar. 6, 2009) (SR–NYSEALTR–2008–14) (approving guaranteed participation for the Specialist Pool and Directed Order Market Makers) (''The Commission believes that these guarantees strike a reasonable balance between rewarding certain participants for making markets (in the case of Specialists and e-Specialists) or bringing liquidity to the exchange (in the case of Directed Order Market Makers), with providing other market participants an incentive to quote aggressively.'').

order is a leg of an Electronic Complex Order or an individual order. The Exchange notes that the proposed rule change is consistent with the allocation process for executing Complex Orders against individual orders and quotes on the Chicago Board Options Exchange (''CBOE'') and NASDAQ OMX PHLX LLC (''PHLX'').[13]

The Exchange notes, moreover, that to receive a guaranteed participation, the Specialist and Directed Order Market Maker are subject to heightened quoting obligations. A Specialist must provide continuous two-side quotations throughout the trading day in its appointed issues for 90% of the time the Exchange is open for trading in each issue.[14] Further, a Directed Order Market Maker must provide continuous two-sided quotations throughout the trading day in issues for which it receives Directed Orders for 90% of the time the Exchange is open for trading in each issue.[15]

Finally, the Exchange also believes that eliminating the inconsistency between Rule 964NY and Rule 980NY with respect to the guarantee will eliminate potential confusion as to whether the Specialist Pool and Directed Order Market Makers are receiving their guaranteed participation when they quote at a price equal to the NBBO.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act,[16] in general, and furthers the objectives of Section 6(b)(5),[17] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest. The Exchange believes that providing the guaranteed participation allocation for the Specialist Pool and Directed Order Market Makers for the execution of incoming Electronic Complex Orders and COA-eligible orders removes impediments to and perfects the mechanism of a free and open market by (1) promoting liquidity on the Exchange because the Specialist Pool's and Directed Order Market Markers' quotes interact with incoming Electronic Complex Orders and COA-eligible orders, (2) providing consistency among Exchange rules by applying the same allocation logic to the execution of incoming Electronic Complex Orders/COA-eligible orders and single-leg orders, and (3) eliminating potential confusion with respect to guaranteed participation for such participants trading in Electronic Complex Orders. Additionally, the Exchange believes that the proposal is designed to protect investors and the public interest because the proposed rule change is consistent with the allocation process for executing Complex Orders against individual orders and quotes on CBOE and PHLX. The Exchange further believes that the proposal will promote liquidity on the Exchange because the Specialist Pool and Directed Order Market Maker guaranteed participation strike a reasonable balance between rewarding certain participants for making markets or bringing liquidity to the Exchange and providing other market participants an incentive to quote aggressively.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange believes the proposed rule change will not impose a significant burden on competition; instead, the Exchange believes the proposed rule change will enhance competition by increasing liquidity in the options market. By permitting the guaranteed participation allocation with respect to Electronic Complex Orders and COA-eligible orders, the Specialist Pool and Directed Order Market Makers are encouraged to quote at the NBBO in their assigned options series, which increases the level of liquidity in the options market. While allocations due to guaranteed participations may direct order flow to particular participants, the Commission has previously approved such allocations as a reasonable balance between rewarding such participants for making markets or bringing liquidity to the exchange, and providing other market participants an incentive to quote aggressively.[18] By allocating 40 percent of the order to the Specialist Pool or Directed Order Market Maker, the Exchange believes that it properly incentivizes the provision of liquidity from the Specialist Pool or Directed Order Market Makers, while still ensuring that other market participants are able to participate and receive allocations.

In addition, eliminating the current exception from the guaranteed participation allocation will also provide consistency and eliminate potential confusion concerning guaranteed participation allocation for such participants with respect to Electronic Complex Orders and COA-eligible orders. Further, the Exchange does not believe the proposal will impose a significant burden on competition since the proposal is consistent with the allocation process on CBOE and PHLX.

*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**

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 after the date of the filing, 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)[20] 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 under Section 19(b)(2)(B)[21] 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

[13] *See* CBOE Rules 6.53C(c)(ii)(2), 6.53C(d)(v)(1), 6.45A(a)(i)(C), and 6.45B(a)(ii)(C). The CBOE's rules governing priority and allocation include cross references to the CBOE's participation entitlement programs: CBOE Rules 8.13 (Preferred Market-Maker Program), 8.15B (Participation Entitlement of LMMs), and 8.87 (Participation Entitled of DPMs and e-DPMs). *See also* Commentaries .08(e)(vi)(A)(1) and .08(f)(iii) to PHLX Rule 1080 and PHLX Rule 1014(g)(vii) (setting forth PHLX's guaranteed participation program, including the Enhanced Specialist Participation program).

[14] *See* Rule 925.1NY(b).

[15] *See* Rule 964.1NY(iv).

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(5).

[18] *See* 74 FR at 9847.

[19] 15 U.S.C. 78s(b)(3)(A).

[20] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[21] 15 U.S.C. 78s(b)(2)(B).

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–2013–85 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEMKT–2013–85. 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–NYSEMKT–2013–85 and should be submitted on or before November 22, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

**Kevin M. O'Neill,**

*Deputy Secretary.*

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**BILLING CODE 8011–01–P**

[22] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–70765; File No. 4–443]**

## Joint Industry Plan; Notice of Filing and Immediate Effectiveness of Amendment to the Plan for the Purpose of Developing and Implementing Procedures Designed To Facilitate the Listing and Trading of Standardized Options To Add Topaz Exchange, LLC as a Plan Sponsor

October 28, 2013.

Pursuant to Section 11A(a)(3) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 608 thereunder,[2] notice is hereby given that on August 7, 2013, Topaz Exchange, LLC (''Topaz'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') an amendment to the Plan for the Purpose of Developing and Implementing Procedures Designed to Facilitate the Listing and Trading of Standardized Options (''OLPP'').[3] The amendment proposes to add Topaz as a Sponsor of the OLPP. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Description and Purpose of the Amendment

The current Sponsors of the OLPP are BATS, BOX, BX, CBOE, C2, ISE, MIAX, Nasdaq, NYSE Amex, NYSE Arca, OCC, and Phlx. The proposed amendment to the OLPP would add Topaz as a Sponsor of the OLPP. A national securities exchange may become a Sponsor if it satisfies the requirement of Section 7 of the OLPP. Specifically an Eligible Exchange [4] may become a Sponsor of the OLPP by: (i) Executing a copy of the OLPP, as then in effect; (ii) providing each current Plan Sponsor with a copy of such executed Plan; and (iii) effecting an amendment to the OLPP, as specified in Section 7(ii) of the OLPP.

Section 7(ii) of the OLPP sets forth the process by which an Eligible Exchange may effect an amendment to the OLPP. Specifically, an Eligible Exchange must: (a) Execute a copy of the OLPP with the only change being the addition of the new sponsor's name in Section 8 of the OLPP; [5] and (b) submit the executed OLPP to the Commission. The OLPP then provides that such an amendment will be effective at the later of either the amendment being approved by the Commission or otherwise becoming effective pursuant to Section 11A of the Act. Topaz has submitted a signed copy of the OLPP to the Commission and to each Plan Sponsor in accordance with the procedures set forth in the OLPP regarding new Plan Sponsors.

### II. Effectiveness of the Proposed Linkage Plan Amendment

The foregoing proposed OLPP amendment has become effective pursuant to Rule 608(b)(3)(iii) [6] because it involves solely technical or ministerial matters. At any time within sixty days of the filing of this amendment, the Commission may summarily abrogate the amendment and require that it be refiled pursuant to paragraphs (a)(1) of Rule 608,[7] if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system or otherwise in furtherance of the purposes of the Act.

[1] 15 U.S.C. 78k–1(a)(3).

[2] 17 CFR 242.608.

[3] On July 6, 2001, the Commission approved the OLPP, which was proposed by the American Stock Exchange LLC (''Amex''), Chicago Board Options Exchange, Incorporated (''CBOE''), International Securities Exchange LLC (''ISE''), Options Clearing Corporation (''OCC''), Philadelphia Stock Exchange, Inc. (''Phlx''), and Pacific Exchange, Inc. (''PCX'') (n/k/a NYSE Arca). *See* Securities Exchange Act Release No. 44521, 66 FR 36809 (July 13, 2001). On February 5, 2004, Boston Stock Exchange, Inc. (''BSE'') was added as a Sponsor to OLPP. *See* Securities Exchange Act Release No. 49199, 69 FR 7030 (February 12, 2004). On March 21, 2008, the NASDAQ Stock Market, LLC (''Nasdaq'') was added as a Sponsor to the OLPP. *See* Securities Exchange Act Release No. 57546, 73 FR 16393 (March 27, 2008). On February 17, 2010, BATS Exchange, Inc. (''BATS'') was added as a Sponsor to the OLPP. *See* Securities Exchange Act Release No. 61528, 75 FR 8415 (February 24, 2010). On October 22, 2010, C2 Options Exchange Incorporated (''C2'') was added as a Sponsor to the OLPP. *See* Securities Exchange Act Release No. 63162, 75 FR 66401 (October 28, 2010). On May 9, 2012, BOX Options Exchange LLC (''BOX'') was added as a Sponsor to the OLPP. *See* Securities Exchange Act Release No. 66952, 77 FR 28641 (May 15, 2012). On June 29, 2012, Nasdaq OMX BX, Inc. (''BX'') was added as a Sponsor to the OLPP. *See* Securities Exchange Act Release No. 67327, 77 FR 40125 (July 6, 2012). On December 5, 2012, Miami International Securities Exchange, LLC (''MIAX'') was added as a Sponsor to the OLPP.

[4] The OLPP defines an ''Eligible Exchange'' as a national securities exchange registered with the Commission pursuant to Section 6(a) of the Exchange Act, 15 U.S.C. 78f(a), that (1) has effective rules for the trading of options contracts issued and cleared by the OCC approved in accordance with the provisions of the Exchange Act and the rules and regulations thereunder and (2) is a party to the Plan for Reporting Consolidated Options Last Sale Reports and Quotation Information (the ''OPRA Plan''). Topaz has represented that it has met both the requirements for being considered an Eligible Exchange.

[5] The Commission notes that the list of plan sponsors is set forth in Section 9 of the OLPP.

[6] 17 CFR 242.608(b)(3)(iii).

[7] 17 CFR 242.608(a)(1).

## III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed amendment 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 4–443 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number 4–443. 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 Topaz's principal office. 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 No. 4–443 and should be submitted on or before November 22, 2013.

By the Commission.

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2013–26076 Filed 10–31–13; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–70763; File No. 4–546]**

## Joint Industry Plan; Notice of Filing and Immediate Effectiveness of Amendment to the Options Order Protection and Locked/Crossed Market Plan To Add Topaz Exchange, LLC as a Participant

October 28, 2013.

Pursuant to Section 11A(a)(3) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 608 thereunder,[2] notice is hereby given that on August 7, 2013, Topaz Exchange, LLC (''Topaz'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') an amendment to the Options Order Protection and Locked/Crossed Market Plan (''Plan'').[3] The amendment added Topaz as a Participant [4] to the Plan. The Commission is publishing this notice to solicit comments on the amendment from interested persons.

### I. Description and Purpose of the Amendment

The current Participants in the Linkage Plan are BOX Options, C2, CBOE, BATS, ISE, Nasdaq, BOX, Phlx, NYSE Amex,[5] NYSE Arca, and MIAX. The amendment to the Plan added Topaz as a Participant in the Plan. Topaz has submitted a signed copy of the Plan to the Commission in accordance with the procedures set forth in the Plan regarding new Participants. Section 3(c) of the Plan provides for the entry of new Participants to the Plan. Specifically an Eligible Exchange [6] may become a Participant in the Plan by: (i) Executing a copy of the Plan, as then in effect; (ii) providing each current Participant with a copy of such executed Plan; (iii) effecting an amendment to the Plan, as specified in Sections 3(c) and 4(b) of the Plan.

Section 4(b) of the Plan puts forth the process by which an Eligible Exchange may effect an amendment to the Plan. Specifically, an Eligible Exchange must: (a) Execute a copy of the Plan with the only change being the addition of the new participant's name in Section 3(a) of the Plan; and (b) submit the executed Plan to the Commission. The Plan then provides that such an amendment will be effective when the amendment is approved by the Commission or otherwise becomes effective pursuant to Section 11A of the Act and Rule 608 thereunder.

### II. Effectiveness of the Linkage Plan Amendment

The foregoing Plan amendment has become effective pursuant to Rule 608(b)(3)(iii) of the Act [7] because it involves solely technical or ministerial matters. At any time within sixty days of the filing of this amendment, the Commission may summarily abrogate the amendment and require that it be refiled pursuant to paragraph (b)(1) of Rule 608,[8] if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system or otherwise in furtherance of the purposes of the Act.

### III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing,

[1] 15 U.S.C. 78k–1(a)(3).

[2] 17 CFR 242.608.

[3] On July 30, 2009, the Commission approved a national market system plan relating to Options Order Protection and Locked/Crossed Markets proposed by Chicago Board Options Exchange, Incorporated (''CBOE''), International Securities Exchange, LLC (''ISE''), The NASDAQ Stock Market LLC (''Nasdaq''), NASDAQ OMX BX, Inc. (''BOX''), NASDAQ OMX PHLX, Inc. (''Phlx''), NYSE Amex, LLC (''NYSE Amex''), and NYSE Arca, Inc. (''NYSE Arca''). *See* Securities Exchange Act Release No. 60405 (July 30, 2009), 74 FR 39362 (August 6, 2009). *See also* Securities Exchange Act Release Nos. 61546 (February 19, 2010), 75 FR 8762 (February 25, 2010) (adding BATS Exchange, Inc. (''BATS'') as a Participant); 63119 (October 15, 2010), 75 FR 65536 (October 25, 2010) (adding C2 Options Exchange, Incorporated (''C2'') as a Participant); 66969 (May 11, 2012), 77 FR 29396 (May 17, 2012) (adding BOX Options Exchange LLC (''BOX Options'') as a Participant). Miami International Securities Exchange, LLC (''MIAX'') joined the Plan on December 5, 2012.

[4] The term ''Participant'' is defined as an Eligible Exchange whose participation in the Plan has become effective pursuant to Section 3(c) of the Plan.

[5] NYSE Amex was recently renamed NYSE MKT LLC. *See* Securities Exchange Act Release No. 67037 (May 21, 2012), 77 FR 31415 (May 25, 2012) (SR–NYSEAmex–2012–32).

[6] Section 2(6) of the Plan defines an ''Eligible Exchange'' as a national securities exchange registered with the Commission pursuant to Section 6(a) of the Act, 15 U.S.C. 78f(a), that: (a) Is a ''Participant Exchange'' in the Options Clearing Corporation (''OCC'') (as defined in OCC By-laws, Section VII); (b) is a party to the Options Price Reporting Authority (''OPRA'') Plan (as defined in the OPRA Plan, Section 1); and (c) if the national securities exchange chooses not to become party to this Plan, is a participant in another plan approved by the Commission providing for comparable Trade-Through and Locked and Crossed Market protection. Topaz has represented that it has met the requirements for being considered an Eligible Exchange. *See* letter from Michael Simon, Secretary, Topaz Exchange, LLC to Elizabeth Murphy, Secretary, Commission, dated August 1, 2013.

[7] 17 CFR 242.608(b)(3)(iii).

[8] 17 CFR 242.608(b)(1).

including whether the amendment 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 4–546 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number 4–546. 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 amendment that are filed with the Commission, and all written communications relating to the amendment 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 Topaz. 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 4–546 and should be submitted on or before November 22, 2013.

By the Commission.

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2013–26073 Filed 10–31–13; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–70766; File No. SR–CBOE–2013–101]**

## Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt the Concept of a ''Responsible Person'' on the CBOE Stock Exchange

October 28, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 15, 2013, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt the concept of a ''Responsible Person'' on its CBOE Stock Exchange (''CBSX''). The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to adopt Rule 53.9—Responsible Persons—to its CBSX rules. The proposed rule is to read: The term ''Responsible Person'' shall mean an individual designated by a CBSX Trader to represent the CBSX Trader in all matters relating to the Exchange. Each CBSX Trader must designate an individual as the Responsible Person for the CBSX Trader. If a CBSX Trader is an individual (and not an organization), that individual will automatically be designated as the CBSX Trader's Responsible Person. The Responsible Person must be affiliated with the CBSX Trader. The Responsible Person must be a United States-based officer, director or management-level employee of the CBSX Trader, who is responsible for the direct supervision and control of Associated Persons of that CBSX Trader.

The purpose of the adoption of the proposed rule is to have a designated person associated with each CBSX Trader whom CBSX may contact whenever an issue arises regarding that CBSX Trader or CBSX otherwise needs to contact that CBSX Trader. The Responsible Person will serve as CBSX's person to contact with regards to that CBSX Trader.

The Exchange will conduct a background investigation and review of each Responsible Person. This investigation and review may include a fingerprint criminal background check (while a Form U–4 (which includes a fingerprint check) would already have been filed with FINRA for the person, the Exchange may elect to perform another fingerprint check if the Form U–4 fingerprint check was performed over one year prior to the processing of the Responsible Person application) and the individual's consent to the Exchange's jurisdiction over the individual. The investigation may also include the engagement of an outside investigatory firm to look into the Responsible Person's background, check references, perform a credit check, look into the Responsible Person's registration, education and regulatory background, and ensure that the Responsible Person is not on any government watch lists.

The proposed rule requires that the Responsible Person be affiliated with the CBSX Trader, be a United States-based officer, director or management-level employee of the CBSX Trader, and be responsible for the direct supervision and control of Associated Persons of that CBSX Trader. These requirements

are in place in order to ensure that the Responsible Person is a person who is affiliated with the CBSX Trader and is a person who has sufficient responsibility and control with the CBSX Trader to be able to effectively participate and assist with CBSX and to work out any issues that may arise, as well as to be a relevant point of contact to ensure that any necessary information that is communicated to the Responsible Person is communicated to anyone else relevant that is involved with the CBSX Trader (and to ensure that CBSX can easily contact the Responsible Person and have jurisdiction over the Responsible Person).

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.[3] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[4] 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)[5] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes the proposed rule change is consistent with Section 6(b)(1) of the Act,[6] which provides that the Exchange be organized and have the capacity to be able to carry out the purposes of the Act and to enforce compliance by CBSX Traders and persons associated with CBSX Traders with the Act, the rules and regulations thereunder, and the rules of the Exchange.

Requiring each CBSX Trader to identify a Responsible Person will make it easier for CBSX to effectively contact and work out issues with a CBSX Trader. This, in turn, will foster cooperation and coordination with persons engaged in regulating trading on CBSX and help to ensure compliance by CBSX Traders with Exchange rules. Simplifying contact between CBSX and CBSX Traders will also remove an impediment to and perfect the mechanism of a free and open market and a national market system. All CBSX Traders will be required to identify a Responsible Person, so this proposed rule change will be applied equally. Finally, another exchange has a similar ''Responsible Person'' requirement.[7]

*B. Self-Regulatory Organization's Statement on Burden on Competition*

CBOE does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because all CBSX Traders will be required to identify a Responsible Person, so this proposed rule change will be applied equally. CBOE does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed change only applies to CBSX Traders and CBSX, and does not impact trading or competition between CBSX and other exchanges.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange neither solicited nor received comments on the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change does not:

A. significantly affect the protection of investors or the public interest;

B. impose any significant burden on competition; and

C. become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and Rule 19b–4(f)(6)[9] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2013–101 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2013–101. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(5).

[5] *Id.*

[6] 15 U.S.C. 78f(b)(1).

[7] *See* C2 Options Exchange, Incorporated (''C2'') Rules 1.1 (definition of ''Responsible Person'') and 3.8.

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6).

2013–101 and should be submitted on or before November 22, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2013–26034 Filed 10–31–13; 8:45 am]

**BILLING CODE 8011–01–P**

[10] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–70762; File No. 4–546]**

## Joint Industry Plan; Notice of Filing and Immediate Effectiveness of Amendment to the Options Order Protection and Locked/Crossed Market Plan To Add the Miami International Securities Exchange, LLC as a Participant

October 28, 2013.

Pursuant to Section 11A(a)(3) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 608 thereunder,[2] notice is hereby given that on December 6, 2012, Miami International Securities Exchange, LLC (''MIAX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') an amendment to the Options Order Protection and Locked/Crossed Market Plan (''Plan'').[3] The amendment added MIAX as a Participant[4] to the Plan. The Commission is publishing this notice to solicit comments on the amendment from interested persons.

### I. Description and Purpose of the Amendment

The current Participants in the Linkage Plan are BOX Options, C2, CBOE, BATS, ISE, Nasdaq, BOX, Phlx, NYSE Amex,[5] NYSE Arca, and Topaz. The amendment to the Plan added MIAX as a Participant in the Plan. MIAX has submitted a signed copy of the Plan to the Commission in accordance with the procedures set forth in the Plan regarding new Participants. Section 3(c) of the Plan provides for the entry of new Participants to the Plan. Specifically an Eligible Exchange[6] may become a Participant in the Plan by: (i) Executing a copy of the Plan, as then in effect; (ii) providing each current Participant with a copy of such executed Plan; (iii) effecting an amendment to the Plan, as specified in Sections 3(c) and 4(b) of the Plan.

Section 4(b) of the Plan puts forth the process by which an Eligible Exchange may effect an amendment to the Plan. Specifically, an Eligible Exchange must: (a) Execute a copy of the Plan with the only change being the addition of the new participant's name in Section 3(a) of the Plan; and (b) submit the executed Plan to the Commission. The Plan then provides that such an amendment will be effective when the amendment is approved by the Commission or otherwise becomes effective pursuant to Section 11A of the Act and Rule 608 thereunder.

### II. Effectiveness of the Linkage Plan Amendment

The foregoing Plan amendment has become effective pursuant to Rule 608(b)(3)(iii) of the Act[7] because it involves solely technical or ministerial matters. At any time within sixty days of the filing of this amendment, the Commission may summarily abrogate the amendment and require that it be refiled pursuant to paragraph (b)(1) of Rule 608,[8] if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system or otherwise in furtherance of the purposes of the Act.

### III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the amendment 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 4–546 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number 4–546. 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 amendment that are filed with the Commission, and all written communications relating to the amendment 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 MIAX. 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 4–546 and should be submitted on or before November 22, 2013.

[1] 15 U.S.C. 78k–1(a)(3).

[2] 17 CFR 242.608.

[3] On July 30, 2009, the Commission approved a national market system plan relating to Options Order Protection and Locked/Crossed Markets proposed by Chicago Board Options Exchange, Incorporated (''CBOE''), International Securities Exchange, LLC (''ISE''), The NASDAQ Stock Market LLC (''Nasdaq''), NASDAQ OMX BX, Inc. (''BOX''), NASDAQ OMX PHLX, Inc. (''Phlx''), NYSE Amex, LLC (''NYSE Amex''), and NYSE Arca, Inc. (''NYSE Arca''). *See* Securities Exchange Act Release No. 60405 (July 30, 2009), 74 FR 39362 (August 6, 2009). *See also* Securities Exchange Act Release Nos. 61546 (February 19, 2010), 75 FR 8762 (February 25, 2010) (adding BATS Exchange, Inc. (''BATS'') as a Participant); 63119 (October 15, 2010), 75 FR 65536 (October 25, 2010) (adding C2 Options Exchange, Incorporated (''C2'') as a Participant); 66969 (May 11, 2012), 77 FR 29396 (May 17, 2012) (adding BOX Options Exchange LLC (''BOX Options'') as a Participant). Topaz Exchange, LLC (''Topaz'') joined the Plan on August 1, 2013.

[4] The term ''Participant'' is defined as an Eligible Exchange whose participation in the Plan has become effective pursuant to Section 3(c) of the Plan.

[5] NYSE Amex was recently renamed NYSE MKT LLC. *See* Securities Exchange Act Release No. 67037 (May 21, 2012), 77 FR 31415 (May 25, 2012) (SR–NYSEAmex–2012–32).

[6] Section 2(6) of the Plan defines an ''Eligible Exchange'' as a national securities exchange registered with the Commission pursuant to Section 6(a) of the Act, 15 U.S.C. 78f(a), that: (a) Is a ''Participant Exchange'' in the Options Clearing Corporation (''OCC'') (as defined in OCC By-laws, Section VII); (b) is a party to the Options Price Reporting Authority (''OPRA'') Plan (as defined in the OPRA Plan, Section 1); and (c) if the national securities exchange chooses not to become party to this Plan, is a participant in another plan approved by the Commission providing for comparable Trade-Through and Locked and Crossed Market protection. MIAX has represented that it has met the requirements for being considered an Eligible Exchange. *See* letter from Barbara Comly, EVP, General Counsel & Corporate Secretary, Miami International Holdings, Inc., to Elizabeth Murphy, Secretary, Commission, dated December 5, 2012.

[7] 17 CFR 242.608(b)(3)(iii).

[8] 17 CFR 242.608(b)(1).

By the Commission.

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2013–26072 Filed 10–31–13; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[File No. 500–1]**

### In the Matter of Press Ventures, Inc.; Order of Suspension of Trading

October 30, 2013.

It appears to the Securities and Exchange Commission that the public interest and the protection of investors require a suspension of trading in the securities of Press Ventures, Inc. (''PVEN'') because of concerns regarding potentially manipulative transactions in PVEN's common stock. PVEN is a Nevada corporation based in Warsaw, Poland. It is quoted on OTCBB and OTC Link under the symbol PVEN.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed company is suspended for the period from 9:30 a.m. EDT on October 30, 2013 through 11:59 p.m. EST on November 12, 2013.

By the Commission.

**Elizabeth M. Murphy,**

*Secretary.*

[FR Doc. 2013–26293 Filed 10–30–13; 4:15 pm]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[File No. 500–1]**

### High End Ventures, Inc., Order of Suspension of Trading

October 21, 2013.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of High End Ventures, Inc. because it has not filed any periodic reports since the period ended June 30, 2009.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company. Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed company is suspended for the period from 9:30 a.m. EDT on October 21, 2013, through 11:59 p.m. EDT on November 1, 2013.

By the Commission.

**Elizabeth M. Murphy,**

*Secretary.*

[FR Doc. 2013–26317 Filed 10–30–13; 4:15 pm]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[File No. 500–1]**

### Newtech Resources Ltd., Order of Suspension of Trading

October 21, 2013.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Newtech Resources Ltd. because it has not filed any periodic reports since the period ended May 31, 2009.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company. Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed company is suspended for the period from 9:30 a.m. EDT on October 21, 2013, through 11:59 p.m. EDT on November 1, 2013.

By the Commission.

**Elizabeth M. Murphy,**

*Secretary.*

[FR Doc. 2013–26316 Filed 10–30–13; 4:15 pm]

**BILLING CODE 8011–01–P**

## SMALL BUSINESS ADMINISTRATION

### Reporting and Recordkeeping Requirements Under OMB Review

**AGENCY:** Small Business Administration.

**ACTION:** Notice of 30 day Reporting Requirements Submitted for OMB Review.

**SUMMARY:** Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

**DATES:** Submit comments on or before December 2, 2013. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

*Copies:* Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

**ADDRESSES:** Address all comments concerning this notice to: *Agency Clearance Officer,* Curtis Rich, Small Business Administration, 409 3rd Street SW., 5th Floor, Washington, DC 20416; and *OMB Reviewer,* Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Curtis Rich, Agency Clearance Officer, (202) 205–7030 *curtis.rich@sba.gov.*

*Abstract:* SBA Forms 1405 and 1405A are used by Small Business Administration (SBA) examiners as part of their examination of licensed small business investment companies (SBICs). This information collection provides independent third party confirmation of an SBIC's representations concerning its owners, and helps SBA to evaluate the SBIC's compliance with applicable laws and regulations concerning capital requirements.

**SUPPLEMENTARY INFORMATION:**

*Title:* Stockholders Confirmation (Corporation): Ownership Confirmation (Partnership).

*Frequency:* On Occasion.

*SBA Form Number's:* 1405, 1405A.

*Description of Respondents:* Investment Companies.

*Responses:* 500.

*Annual Burden:* 500.

**Curtis Rich,**

*Management Analyst.*

[FR Doc. 2013–26045 Filed 10–31–13; 8:45 am]

**BILLING CODE P**

## SMALL BUSINESS ADMINISTRATION

### Reporting and Recordkeeping Requirements Under OMB Review

**AGENCY:** Small Business Administration.

**ACTION:** Notice of 30 day Reporting Requirements Submitted for OMB Review.

**SUMMARY:** Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

**DATES:** Submit comments on or before December 2, 2013. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

*Copies:* Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

**ADDRESSES:** Address all comments concerning this notice to: *Agency Clearance Officer,* Curtis Rich, Small Business Administration, 409 3rd Street SW., 5th Floor, Washington, DC 20416; and *OMB Reviewer,* Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Curtis Rich, Agency Clearance Officer, (202) 205–7030 *curtis.rich@sba.gov.*

*Abstract:* Government wide requirements in the annual appropriations act, as well as OMB Circular A 123 Appendix B. require agencies to conduct an alternative credit worthiness assessment when the credit score inquiry results in no score. This information of collection will be used as a means of making that alternative.

**SUPPLEMENTARY INFORMATION:**

*Title:* Alternate Creditworthiness Assessment.

*Frequency:* On Occasion.

*SBA Form Number:* 2294.

*Description of Respondents:* Requesting alternative credit worthiness.

*Responses:* 10.

*Annual Burden:* 2.

**Curtis Rich,**

*Management Analyst.*

[FR Doc. 2013–26044 Filed 10–31–13; 8:45 am]

BILLING CODE P

## SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration #13802 and #13803]**

### Kansas Disaster #KS–00075

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice.

**SUMMARY:** This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Kansas (FEMA–4150–DR), dated 10/22/2013.

*Incident:* Severe Storms, Straight-line Winds, Tornadoes, and Flooding.

*Incident Period:* 07/22/2013 through 08/16/2013.

*Effective Date:* 10/22/2013.

*Physical Loan Application Deadline Date:* 12/23/2013.

*Economic Injury (EIDL) Loan Application Deadline Date:* 07/22/2014.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that as a result of the President's major disaster declaration on 10/22/2013, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

*Primary Counties:* Barber, Barton, Bourbon, Butler, Chase, Cherokee, Clark, Clay, Cloud, Coffey, Comanche, Cowley, Crawford, Dickinson, Edwards, Elk, Ellsworth, Ford, Geary, Greenwood. Hamilton, Harper, Harvey, Hodgeman, Kingman, Kiowa, Lane, Linn, Lyon, Marion, Mcpherson, Meade, Montgomery, Morris, Ness, Ottawa, Pawnee, Pratt, Reno, Republic, Rice, Saline, Sumner, Washington, Wilson, Woodson.

The Interest Rates are:

| | Percent |
|---|---|
| *For Physical Damage:* | |
| Non-Profit Organizations With Credit Available Elsewhere ... | 2.875 |
| Non-Profit Organizations Without Credit Available Elsewhere ..... | 2.875 |
| *For Economic Injury:* | |
| Non-Profit Organizations Without Credit Available Elsewhere ..... | 2.875 |

The number assigned to this disaster for physical damage is 13802B and for economic injury is 13803B

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

**James E. Rivera,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 2013–26041 Filed 10–31–13; 8:45 am]

BILLING CODE 8025–01–P

## SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration #13752]**

### Oregon Disaster #OR–00051 Declaration of Economic Injury

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Amendment 1.

**SUMMARY:** This is a notice of an Economic Injury Disaster Loan (EIDL) declaration for the State of Oregon, dated 09/06/2013.

*Incident:* Multiple Fire Complexes.

*Incident Period:* 07/26/2013 through 09/30/2013.

*Effective Date:* 10/28/2013.

*EIDL Loan Application Deadline Date:* 06/06/2014.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** The notice of the Economic Injury declaration for the State of Oregon dated 09/06/2013 is hereby amended to establish the incident period for this disaster as beginning 07/26/2013 and continuing through 09/30/2013. All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59002)

Dated: October 28, 2013.

**Jeanne Hulit,**

*Acting Administrator.*

[FR Doc. 2013–26039 Filed 10–31–13; 8:45 am]

BILLING CODE 8025–01–P

## SOCIAL SECURITY ADMINISTRATION

### Agency Information Collection Activities: Proposed 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 of OMB-approved information collections.

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, DCRDP, Attn: Reports Clearance Director, 107 Altmeyer Building, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–966–2830, Email address: *OR.Reports.Clearance@ssa.gov.*

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 December 31, 2013. Individuals can obtain copies of the collection instruments by writing to the above email address.

1. Request for Waiver of Special Veterans Benefits (SVB) Overpayment Recovery or Change in Repayment Rate—20 CFR 408.900–408.950–0960–0698. Title VIII of the Social Security Act requires SSA to pay a monthly benefit to qualified World War II veterans who reside outside the United States. When an overpayment in this SVB occurs, the beneficiary can request a waiver of recovery of the overpayment or a change in the repayment rate. SSA uses the SSA–2032–BK to obtain the information necessary to establish whether the claimant meets the waiver of recovery provisions of the overpayment, and to determine the repayment rate if we do not waive repayment. Respondents are SVB beneficiaries who have overpayments on their Title VIII record and wish to file a claim for waiver of recovery or change in repayment rate.

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–2032–BK | 450 | 1 | 120 | 900 |

2. Benefit Offset National Demonstration—0960–0785. SSA is undertaking the Benefit Offset National Demonstration (BOND)—a demonstration and evaluation of policy changes and services on the Social Security Disability Insurance (SSDI) program—in an effort to produce strong evidence about the effectiveness of potential solutions that would improve the historically very low rate of return to work among SSDI beneficiaries. Under current law, Social Security beneficiaries lose their SSDI benefit if they have earnings or work activity above the threshold of Substantial Gainful Activity. The benefit-offset component of this demonstration reduces benefits by $1 for each $2 in earnings above the BOND threshold, resulting in a gradual reduction in benefits as earnings increase. The experimental design for BOND tests a benefit offset alone and in conjunction with enhanced work incentives counseling. The central research questions include:

- What is the effect of the benefit offset alone on employment and other outcomes?
- What is the effect of the benefit offset in combination with enhanced work incentives counseling on employment and other outcomes?

The public survey data collections have four components—an impact study, a cost-benefit analysis, a participation analysis, and a process study. The data collections are a primary source for data to measure the effects of a more generous benefit offset and the provision of enhanced work incentives counseling on SSDI beneficiaries' work efforts and earnings. Ultimately, these data will benefit researchers, policy analysts, policy makers and the United States Congress in a wide range of program areas. The effects of BOND on the well-being of SSDI beneficiaries could manifest themselves in many dimensions and could be relevant to an array of other public programs. This project offers the first opportunity to obtain reliable measures of these effects based upon a nationally representative sample. The long-term indirect benefits of this research are therefore likely to be substantial. Respondents are SSDI beneficiaries and concurrent SSDI beneficiaries and Supplemental Security Income recipients who we randomly assign to the study (Stage 1), and SSDI beneficiaries who agree to participate in the study (Stage 2).

Type of Request: Revision 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) |
|---|---|---|---|---|---|
| Participation Agreement | 12,954 | 1 | 12,954 | 20 | 4,318 |
| Baseline Survey | 12,954 | 1 | 12,954 | 41 | 8,852 |
| Stage 2, 12-month Interim Survey | 10,363 | 1 | 10,363 | 29 | 5,008 |
| Stage 1, 36-month Survey | 8,000 | 1 | 8,000 | 49 | 6,533 |
| Stage 2, 36-month Survey | 10,363 | 1 | 10,363 | 60 | 10,363 |
| Enhanced Work Incentives Assessment | 3,089 | 1 | 3,089 | 35 | 1,802 |
| Key Informant Interviews | 100 | 7 | 700 | 60 | 700 |
| Stage 2, Participant Focus Groups | 600 | 1 | 600 | 90 | 900 |
| Stage 1, First Contact Letter Survey | 500 | 1 | 500 | 3 | 25 |
| Totals | 89,923 | | 59,523 | | 38,501 |

Dated: October 29, 2013.

**Faye Lipsky,**

*Reports Clearance Director, Social Security Administration.*

[FR Doc. 2013–26054 Filed 10–31–13; 8:45 am]

**BILLING CODE 4191–02–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

### Environmental Impact Statement: Adoption: St. Tammany Parish, LA

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of Intent.

**SUMMARY:** FHWA is issuing this notice of intent to advise the public of its intent to adopt an existing Environmental Impact Statement (EIS) in accordance with the Council on Environment Quality regulations, 40 CFR 1506.3. The final EIS was prepared and approved by the US Army of Engineers, New Orleans District for LA 3241, I–12 to Bush Highway in St. Tammany Parish, Louisiana. The FEIS will be supplemented to include a noise analysis in accordance with 23 CFR part 772, a Section 4(f) evaluation in accordance with 23 CFR part 774, and an analysis of the effects resulting from a change in the location of the connection with LA 434.

**FOR FURTHER INFORMATION CONTACT:** Carl Highsmith, Project Delivery Team Leader, Louisiana Division, Federal Highway Administration, 5304 Flanders Drive, Suite A, Baton Rouge, LA 70808 Telephone: 225.757.7615. See also the project Web site at *http://www.i12tobush.com.*

**SUPPLEMENTARY INFORMATION:** The FHWA, in cooperation with the Louisiana Department of Transportation and Development (DOTD), intends to adopt an approved Final EIS for the I–12 to Bush Highway in St. Tammany Parish, Louisiana. The EIS was prepared by the US Army Corps of Engineers, New Orleans District, as part of a Section 404 permit application number MVN–2005–00037. The NOI for the EIS appeared in the FR, Volume 73, Number 224, November 19, 2008. The project calls for the construction of a new four-lane highway connecting I–12 to Bush, Louisiana, in St. Tammany Parish. The preferred alternative is approximately 19.8 miles in length and begins at LA 434, north of the existing LA 434 interchange, and traverses in a northeasterly direction until encountering an abandoned rail corridor. It then follows the rail corridor terminating at the LA 21/LA 41 intersection near Bush, Louisiana. The EIS considered the social, environmental, and economic impacts of the project. The No-Action alternative and four roadway alternatives were evaluated and discussed in the draft and final EIS. The FHWA will prepare a noise study in accordance with 23 CFR part 772 and coordinate the Section 4(f) evaluation for the project in accordance with 40 CFR 1505.2. The public will be given an opportunity to comment on the proposed action prior to issuance of a ROD by FHWA. The public notice will be published in local newspapers and on the project Web site at *www.i12tobush.com.*

Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: October 23, 2013.

**Charles W. Bolinger,**

*Division Administrator, Baton Rouge, Louisiana.*

[FR Doc. 2013–26051 Filed 10–31–13; 8:45 am]

**BILLING CODE 4910–22–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

**[Docket No. FHWA–2013–0048]**

### Notice of Funding Availability for Accelerated Innovation Deployment Demonstration

**AGENCY:** Federal Highway Administration (FHWA), Department of Transportation (DOT).

**ACTION:** Notice of funding availability; request for comments.

**SUMMARY:** This notice announces the availability of funding for Accelerated Innovation Deployment (AID) Demonstration authorized within the Technology and Innovation Deployment Program (TIDP) under the Moving Ahead for Progress in the 21st Century Act (MAP–21). This notice is addressed to organizations that are interested in applying and proposes selection criteria and application requirements for AID Demonstration funding. The FHWA requests comments on the content of this notice. The FHWA will take all comments into consideration and publish a final notice of funding availability.

The FHWA will solicit grant applications through the governmentwide electronic grants Web site at *http://www.grants.gov.*

**DATES:** All public comments must be received on or before November 22, 2013. Late-filed comments will be considered to the extent practicable.

The FHWA plans to conduct outreach regarding the AID Demonstration in the form of a Webinar within 2 weeks of this notice being issued. Participants can pre-register online at: *https://connectdot.connectsolutions.com/tidp/event/.* Information on the Webinar date and time will be emailed to registered participants. The Webinar will be recorded and posted on FHWA's Web site at *http://www.fhwa.dot.gov/accelerating/grants.*

**ADDRESSES:** You may submit comments, identified by docket number FHWA–2013–0048, by any of the following methods:

*Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for submitting comments.

*Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

*Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

*Instructions:* You must include the agency name and docket number FHWA–2013–0048 on your comments. All comments received will be posted, without change, to *http//www.regulations.gov*, including any personal information provided.

**FOR FURTHER INFORMATION CONTACT:** Ms. Ewa Flom, Program Coordinator, Center for Accelerating Innovation, Federal Highway Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, (202) 366–2169; or Ms. Seetha Srinivasan, Office of the Chief Counsel, Federal Highway Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, (202) 366–4099. Office hours are from 8:00 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays. A TDD is available for individuals who are deaf or hard of hearing at (202) 366–3993.

In addition, the FHWA will regularly post answers to questions and requests for clarifications on FHWA's Web site at *http://www.fhwa.dot.gov/accelerating/grants.* Applicants are encouraged to contact FHWA directly to receive information about AID Demonstration.

**SUPPLEMENTARY INFORMATION:**

**Electronic Access**

This document may be viewed online through the Federal eRulemaking portal at: *http://www.regulations.gov*. Regulations.gov is available 24 hours each day, 365 days each year. Electronic submission and retrieval help and guidelines are available under the help section of the Web site. An electronic copy of this document may also be downloaded by accessing the Office of the Federal Register's home page at: *http://www.archives.gov/federal_register/*, or the Government Printing Office's Web page at: *http://www.gpo.gov/fdsys*.

**Request for Comments on Proposed Selection Criteria and Application Requirements**

This notice invited interested parties to submit comments on the proposed selection criteria and application requirements described below. The FHWA will consider these comments and publish a final notice of funding availability.

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## I. Background

On July 6, 2012, President Obama signed into law MAP–21 (Pub. L. 112–141), which amends 23 U.S.C. 503 for TIDP to implement accelerated innovation deployment; future strategic highway research program findings and results; and accelerated implementation and deployment of pavement technologies. The TIDP relates to all aspects of highway transportation including planning, financing, operation, structures, materials, pavements, environment, and construction.

Section 503(c)(1) specifies the following TIDP goals: (A) Significantly accelerate the adoption of innovative technologies by the surface transportation community; (B) provide leadership and incentives to demonstrate and promote state-of the-art technologies, elevated performance standards, and new business practices in highway construction processes that result in improved safety, faster construction, reduced congestion from construction, and improved quality and user satisfaction; (C) construct longer-lasting highways through the use of innovative technologies and practices that lead to faster construction of efficient and safe highways and bridges; (D) improve highway efficiency, safety, mobility, reliability, service life, environmental protection, and sustainability; and (E) develop and deploy new tools, techniques, and practices to accelerate the adoption of innovation in all aspects of highway transportation.

## II. Program Funding and Award

Section 51001 of MAP–21 authorized $62,500,000 for the TIDP for each of Fiscal Years (FY) 2013 and 2014. The FY 2013 and FY 2014 funds are subject to an annual obligation limitation that is established in appropriations law. The amount of TIDP budget authority available in a given year may be less than the amount authorized for that fiscal year.

The AID Demonstration is one aspect of the multifaceted TIDP approach. The FHWA expects approximately $15,000,000 to be made available in each of FY 2013 and FY 2014 for AID Demonstration. The FHWA expects to award AID Demonstration funds to multiple projects in each fiscal year. The FHWA has funding award goals of up to $14,000,000 available to State departments of transportation (State DOT) and up to $1,000,000 available to Federal Land Management Agencies and tribal governments. Initially, awards will be limited to one project per applicant, subject to the number of eligible applications and the availability of funds.

The amount of the award may be up to the full cost of the innovation, but only to a maximum of $1,000,000. States are also encouraged to use Section 1304 of MAP–21 ''Innovative Project Delivery Methods'' (23 U.S.C. 120(c)(3)) to increase the Federal share on these projects up to 5 percent. Information on the ''Innovative Project Delivery Methods'' provision is available at *http://www.fhwa.dot.gov/map21/qandas/qaipd.cfm*. These funding goals will be reviewed annually and may be adjusted to reflect current priorities and needs.

The FHWA will use an open, rolling solicitation. Applicants are encouraged to apply as soon as the eligible project is within 6 months of being initiated. Funds will be allocated upon award selection. Award recipients must obligate the awarded funds to the project within 6 months of allocation.

Award recipients must submit a final report to the FHWA within 6 months of project completion that documents the process, benefits, and lessons learned including development and/or refinement of guidance, specifications or other tools and methods to support rapid adoption of the innovation(s) as standard practice, as well as level of commitment by recipient to deploy the innovation as standard practice.

## III. Eligibility

### *A. Entities Eligible To Apply for Funding*

The AID Demonstration provides incentive funding for eligible entities to accelerate the implementation and adoption of innovation in highway transportation. Section 502(b)(3) of title 23, U.S.C., authorizes the Secretary to award research grants to a wide range of entities. The FHWA proposes to provide AID Demonstration grants to eligible State DOTs, Federal Land Management Agencies, and tribal governments. We believe these entities are the most likely to fulfill the deployment goals of the AID Demonstration program, since they are actively engaged in the deployment of new technologies. Consistent with other FHWA funding provided to tribes, any federally recognized tribe identified on the list of ''Indian Entities Recognized and Eligible to Receive Services from the Bureau of Indian Affairs'' (published at 77 FR 47868) is eligible to apply. Metropolitan planning organizations and local governments may apply through State DOTs as subrecipients. Applicants must submit applications electronically through Grants.gov.

The FHWA has funding award goals of up to $14,000,000 available to State DOTs and up to $1,000,000 available to Federal Land Management Agencies and tribal governments. Initially, awards will be limited to one project per applicant, subject to the number of eligible applications and the availability of funds. These funding goals will be reviewed annually and may be adjusted to reflect current priorities and needs.

### *B. Eligible Uses of Funds*

The AID Demonstration funds are available for any project eligible for assistance under title 23, United States Code. Eligible projects may involve any aspect of highway transportation including planning, financing, operation, structures, materials, pavements, environment, and

construction that address the TIDP goals mentioned in the ''Background'' section. Projects eligible for funding shall include proven innovative practices or technologies, including infrastructure and non-infrastructure strategies or activities, which the applicant or subrecipient intends to implement and adopt as a significant improvement from the applicant's or the subrecipient's conventional practice.

The amount of the award may be up to the full cost of the innovation in the project, but only to a maximum of $1,000,000. States are also encouraged to use Section 1304 of MAP–21 (23 U.S.C. 120(c)(3)) ''Innovative Project Delivery Methods'' on projects that may qualify to increase the Federal share by up to 5 percent. Information on the ''Innovative Project Delivery Methods'' is available at *http://www.fhwa.dot.gov/map21/qandas/qaipd.cfm*.

## IV. Selection Criteria

The FHWA will award TIDP AID Demonstration funds to projects based on the selection criteria outlined below.

The FHWA will use an open, rolling solicitation. Project readiness will be treated as primary selection criteria in FHWA's evaluation process. The project must be ready to be advanced within 6 months of applying for AID Demonstration funding. An eligible project shall include an innovation that aligns with the previously described TIDP goals. The innovation must be proven in real-world application with documented benefits (in a form that is publicly available or verifiable), not routinely used by the applicant or the subrecipient, and of significant improvement from the applicant's or the subrecipient's conventional practice. The FHWA encourages the use of innovations included in the Every Day Counts (EDC) initiative. Please go to the following link to see examples of EDC initiatives: *http://www.fhwa.dot.gov/everydaycounts/*.

Initially, awards will be limited to one project per applicant, subject to the number of eligible applications and the availability of funds. To ensure a wide variety of innovations and project types, the FHWA will also initially limit awards to three projects per innovation. If several applications submitted at the same time are rated as ''Qualified'' and exceed the amount of available funding, the FHWA intends to give priority funding consideration to projects that (1) have not received TIDP funding, and (2) use an innovation that is included in the EDC initiative.

In the application, the applicant or the subrecipient must indicate willingness to: (1) Participate in monitoring and assessment activities regarding the effectiveness of the innovation(s) and subsequent technology transfer and information dissemination activities associated with the project; (2) accept FHWA oversight of the project; and (3) conduct a before and after customer satisfaction determination for construction projects.

## V. Evaluation Process

The FHWA will evaluate AID Demonstration applications in accordance with the evaluation process discussed below.

The FHWA will establish an evaluation team of technical and professional staff with relevant experience and/or expertise to review each application received by FHWA through Grants.gov. The evaluation team will be responsible for reviewing, evaluating, and rating the applications as well as making funding recommendations to FHWA senior leadership.

After reviewing the application, the evaluation team may contact the applicant to discuss the application and confirm understanding of the requirements for participation in AID Demonstration. Based on the information collected, the evaluation team will prepare a summary assessment rating the application along with the team's recommendation. The summary assessment and recommendation will be presented to FHWA senior leadership to make a final determination on the approval of the award.

### A. Selection Criteria

All applications will be evaluated on a first submitted basis and be assigned a rating of ''Qualified'' or ''Not Qualified.'' If several applications submitted at the same time are rated as ''Qualified'' and exceed the amount of available funding, the FHWA intends to give priority funding consideration to projects that (1) have not received TIDP funding and (2) use an innovation that is included in the EDC initiative.

The ratings are as follows:

1. Qualified

- Project ready to initiate within 6 months of applying for AID Demonstration funding;
- project innovation aligns with TIDP goals;
- innovation is proven in real-world application with documented benefits, and not routinely used by the applicant or the subrecipient;
- application describes the innovation's magnitude and scope of impact on the applicant's or the subrecipient's conventional practice;
- data is included that directly supports the requested funding amount;
- information provided on performance goals and measures for respective innovation demonstration and deployment activities;
- application indicates the applicant's or subrecipient's willingness to:

(1) participate in monitoring and assessment activities regarding the effectiveness of the innovation(s) and subsequent technology transfer and information dissemination activities associated with the project;

(2) accept FHWA oversight of the project; and

(3) conduct before and after customer satisfaction determinations for construction projects.

2. Not Qualified

- Project does not meet the eligibility requirements;
- application does not meet the ''Qualified'' rating;
- application fails to address one or more of the application requirements;
- applicant received AID Demonstration funding within the current fiscal year;
- three projects with the innovation were already awarded AID Demonstration funding.

## VI. Application Process

### *A. Contents of Applications*

The applicant will include all of the information requested below in their applications. The FHWA may request applicants to supplement the data in the application, but encourages applicants to submit the most relevant and complete information they can provide. The applicant should, to the extent practicable, provide data and evidence of project merits in a form that is publicly available or verifiable.

A complete application will consist of: (1) The Standard Form 424 (SF 424) available from Grants.gov, and (2) the narrative attachment to the SF 424 as described below.

### *B. Standard Form 424, Application for Federal Assistance*

Applicants should see *www.grants.gov/assets/SF424Instructions.pdf* for instructions on completing the SF 424, which is part of the standard Grants.gov submission.

### *C. Narrative (Attachment to SF 424)*

The applicant should include the supplemental narrative in the attachments section of the SF 424 mandatory form in Grants.gov to

successfully complete the application process.

The applicant should respond to the application requirements described below. The supplemental narrative should be prepared with standard formatting (e.g. a single-spaced document, using a standard 12-point font, such as Times New Roman, with 1-inch margins) and should not exceed five pages.

An application should include information needed to verify that the project meets the statutory eligibility criteria as described in Section III (*Eligibility*) as well as other information required for FHWA to assess each of the criteria specified in Section IV (*Selection Criteria).* The applicant is required to demonstrate the responsiveness of the proposal to any pertinent selection criteria with the most relevant information that applicants can provide, regardless of whether such information is specifically requested or identified. The applicant should provide concrete evidence of project milestones, financial capacity, and commitment in order to support project readiness.

For ease of review, the narrative should generally adhere to the following basic outline, and include relevant maps and graphics:

1. *Project Abstract:* Describe work that would be completed under the project, whether the project is a complete project or part of a larger project with prior investment, and the aspect of highway transportation and the TIDP goals that the innovation would address (maximum five sentences). The project abstract should succinctly describe how this specific request for AID Demonstration funding would be included in the project.

2. *Project Description:* Brief description of the project and project objective(s), the innovation and related documented benefits, the performance goals and measures for the innovation, current organizational/institutional experience with the innovation, and the significant improvement to conventional practice expected.

3. *Innovation Performance:* Brief description of how the innovation will be monitored, assessed, and documented to determine if the performance goals and measures are achieved, including a timeline of demonstration, deployment, implementation, and/or adoption activities.

4. *Applicant information and coordination with other entities:* Identification of applicant, and subrecipient if applicable; description of cooperation with other entities; and information regarding any other entities involved in the project.

5. *Funding Request:* Summary of the funding request including the basis for determining the cost of the innovation in the project. The applicant should also include the total project cost.

6. *Eligibility and Selection Criteria:* Brief description of how the project meets the statutory eligibility criteria as described in Section III (*Eligibility*) and the selection criteria identified in Section IV (*Selection Criteria*).

*D. Contact Information*

The applicant should include contact information requested as part of the SF–424. The FHWA will use this information to contact applicants and to inform parties of FHWA's decision regarding selection of projects. Contact information should be provided for a direct employee of the applicant. Contact information for a contractor, agent, or consultant of the lead applicant is insufficient for FHWA's purposes.

*E. Additional Information on Applying Through Grants.gov*

Applications for AID Demonstration must be submitted through Grants.gov. To apply for funding through Grants.gov, applicants must be properly registered. Complete instructions on how to register and apply can be found at *www.grants.gov.* If interested parties experience difficulties at any point during the registration or application process, they should call the Grants.gov Customer Support Hotline at 1–800–518–4726, Monday–Friday from 7:00 a.m. to 9:00 p.m. e.t.

Registering with Grants.gov is a one-time process, however, processing delays may occur and it can take up to several weeks for first-time registrants to receive confirmation and a user password. Accordingly, FHWA highly recommends that potential applicants start the registration process as early as possible. In order to apply for AID Demonstration under this notice and to apply for funding through Grants.gov, all applicants are required to complete the following:

1. *Acquire a Data Universal Numbering System (DUNS) Number.* A DUNS number is required for Grants.gov registration. The Office of Management and Budget requires that all applicants for Federal funds include a DUNS number in their applications for a new award or renewal of an existing award. A DUNS number is a unique nine-digit sequence recognized as the universal standard for identifying and keeping track of entities receiving Federal funds. The identifier is used for tracking purposes and to validate address and point of contact information for Federal assistance applicants, recipients, and subrecipients. The DUNS number will be used throughout the grant life cycle. Obtaining a DUNS number is a free, one-time activity that can be completed by calling 1–866–705–5711 or by applying online at *http://fedgov.dnb.com/webform.*

2. *Acquire or Renew Registration with the Central Contractor Registration (CCR) Database.* All applicants for Federal financial assistance maintain current registrations in the CCR database. An applicant must be registered in the CCR to successfully register in Grants.gov. The CCR database is the repository for standard information about Federal financial assistance applicants, recipients, and subrecipients. Entities that have previously submitted applications via Grants.gov are already registered with CCR, as it is a requirement for Grants.gov registration. Please note, however, that applicants must update or renew their CCR registration at least once per year to maintain an active status, so it is critical to check registration status well in advance of relevant application deadlines. Information about CCR registration procedures can be accessed at: *https://www.sam.gov/portal/public/SAM/.*

3. *Acquire an Authorized Organization Representative (AOR) and a Grants.gov Username and Password.* Applicants will need to complete an AOR profile on Grants.gov and create a username and password. The assigned DUNS Number is required to complete this step. For more information about the registration process, go to: *www.grants.gov/applicants/get_registered.jsp.*

4. *Acquire Authorization for the AOR from the E-Business Point of Contact (E-Biz POC).* The E-Biz POC for the applicant must log in to Grants.gov to confirm the applicant as an AOR. Please note that there can be more than one AOR for each applicant.

5. *Search for the Funding Opportunity on Grants.gov.* Applicants can use the Catalog of Federal Domestic Assistance number for this solicitation, which is 20.200, titled Technology and Innovation Development Program, when searching for the AID Demonstration opportunity on Grants.gov.

6. *Submit an Application Addressing All of the Requirements Outlined in this Notice of Funding Availability.* Within 24 to 48 hours after submitting an electronic application, applicants should receive an email validation message from Grants.gov. The validation message will specify whether the

application was received and validated or rejected, with an explanation.

**Note:** When uploading attachments, applicants should use generally accepted formats such as .pdf, .doc, and .xls. While applicants may imbed picture files such as .jpg, .gif, .bmp, in your files, they should not save and submit the attachment in these formats. Additionally, the following formats will not be accepted: .com, .bat, .exe, .vbs, .cfg, .dat, .db, .dbf, .dll, .ini, .log, .ora, .sys, and .zip.

*F. Experiencing Technical Issues With Grants.gov*

If interested parties experience difficulties at any point during the registration or application process, they should call the Grants.gov Customer Support Hotline at 1–800–518–4726, Monday–Friday from 7:00 a.m. to 9:00 p.m. e.t.

**VII. Performance Measurement**

Each applicant selected for AID Demonstration funding will need to work with FHWA on the development and implementation of a plan to collect information and report on the project's performance with respect to the relevant outcomes that are expected to be achieved through the innovation in the project. Each recipient of AID Demonstration funding will report on specified performance indicators for its project. Performance indicators will be identified for each project, and will consider the individual project's stated goals as well as resource constraints of the recipient. Performance indicators will not include formal goals or targets, but will include baseline measures as well as post-project outputs, and will inform the AID Demonstration program in working toward best practices, programmatic performance measures, and future decisionmaking guidelines. The recipient must submit a final report to FHWA within 6 months of project completion which documents the process, benefits, and lessons learned including development and/or refinement of guidance, specifications or other tools and methods to support rapid adoption of the innovation(s) as standard practice.

**VIII. Questions and Clarifications**

For further information concerning this notice please contact Ms. Ewa Flom, Program Coordinator, Center for Accelerating Innovation, (202) 366–2169, or Ms. Seetha Srinivasan, Office of the Chief Counsel, (202) 366–4099, Federal Highway Administration, 1200 New Jersey Avenue SE., Washington, DC 20590. Office hours are from 8 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays. A TDD is available for individuals who are deaf or hard of hearing at (202) 366–3993.

In addition, FHWA will post answers to questions and requests for clarifications on FHWA's Web site at *http://www.fhwa.dot.gov/accelerating/grants*. Applicants are encouraged to contact FHWA directly to receive information about AID Demonstration.

**Authority:** Section 52003 of Pub. L. 112–141; 23 U.S.C. 503.

Issued on: October 21, 2013.

**Victor M. Mendez,**

*FHWA Administrator.*

[FR Doc. 2013–26053 Filed 10–31–13; 8:45 am]

BILLING CODE 4910–22–P

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

### Integrated Corridor Management Deployment Planning Grants

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice; Request for applications.

**SUMMARY:** This notice invites States, Metropolitan Planning Organizations (MPO), and local governments that intend to initiate or continue Integrated Corridor Management (ICM) development with their partners, such as arterial management agencies, tolling authorities, and transit authorities, to apply for deployment planning grants. The Moving Ahead for Progress in the 21st Century Act (MAP–21) authorized the FHWA to encourage Intelligent Transportation Systems (ITS) deployment on the national highway system through demonstrations and grant programs. The purpose of this program is to promote the integrated management and operations of the transportation system, thereby improving multimodal transportation system management and operations.

This notice seeks applications for available funding for this program. This funding will be provided to cover a maximum of 80 percent of each proposed program/project. Total costs of each proposed program/project should not exceed $200,000. Up to 10 awards are anticipated, but not guaranteed.

Optional phase two: FHWA has the discretion to award additional funding to successful applicants to further advance their ICM concepts within the context of ICM deployment beyond the initial work product delivered.

**DATES:** Formal applications must be submitted no later than December 31, 2013 to be assured consideration. Applications should be submitted through *http://www.grants.gov.*

**FOR FURTHER INFORMATION CONTACT:** For questions about the program discussed herein, contact Mr. Robert Sheehan, FHWA Office of Transportation Management, (202) 366–6817, or via email at *Robert.Sheehan@dot.gov,* or Mr. Brian Cronin, Team Leader, Research, Research and Innovative Technology Administration (RITA) ITS-Joint Program Office, (202) 366–8841 or via email at *Brian.Cronin@dot.gov.* For legal questions, please contact Adam Sleeter, Attorney Advisor, FHWA Office of the Chief Counsel, (202) 366–8839, or via email at *adam.sleeter@dot.gov.* Business hours for the FHWA are from 8:00 a.m., e.t., to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

**Electronic Access**

An electronic copy of this document may be downloaded from the **Federal Register**'s home page at: *http://www.federalregister.gov.*

**Additional Information on Applying Through Grants.gov**

Applications for ICM Deployment Planning Grants would be submitted through Grants.gov. To apply for funding through Grants.gov, applicants must be properly registered. Complete instructions on how to register and apply can be found at *www.grants.gov.* If interested parties experience difficulties at any point during registration or application process, they should call the Grants.gov Customer Support Hotline at 1–800–518–4726, Monday-Friday from 7:00 a.m. to 9:00 p.m. e.t.

Registering with Grants.gov is a one-time process; however, processing delays may occur and it can take up to several weeks for first-time registrants to receive confirmation and a user password. Accordingly, FHWA highly recommends that potential applicants start the registration process as early as possible to prevent delays that may preclude submitting an application by the deadlines specified. Applications will not be accepted after the relevant due date; delayed registration is not an acceptable reason for extensions. In order to apply for ICM Deployment Planning Grants under this announcement and to apply for funding through Grants.gov, all applicants are required to complete the following:

1. Acquire a Data Universal Numbering System (DUNS) number. A DUNS number is required for Grants.gov registration. The Office of Management and Budget requires that all applicants for Federal funds include a DUNS number in their applications for a new award or renewal of an existing award.

A DUNS number is a unique nine-digit sequence recognized as the universal standard for identifying and keeping track of entities receiving Federal funds. The identifier is used for tracking purposes and to validate address and point of contact information for Federal assistance applicants, recipients, and sub-recipients. The DUNS number will be used throughout the grant life cycle. Obtaining a DUNS number is a free, one-time activity that can be completed by calling 1–866–705–5711 or by applying online at *http://fedgov.dnb.com/webform.*

2. Acquire or Renew Registration with the Central Contractor Registration (CCR) Database. All applicants for Federal financial assistance maintain current registrations in the CCR database. An applicant must be registered in the CCR to successfully register in Grants.gov. The CCR database is the repository for standard information about Federal financial assistance applicants, recipients, and sub-recipients. Entities that have previously submitted applications via Grants.gov are already registered with CCR, as it is a requirement for Grants.gov registration. Please note, however, that applicants must update or renew their CCR registration at least once per year to maintain an active status, so it is critical to check registration status well in advance of relevant application deadlines. Information about CCR registration procedures can be accessed at: *https://www.sam.gov/portal/public/SAM/.*

3. Acquire an Authorized Organization Representative (AOR) and a Grants.gov Username and Password. Applicants will need to complete an AOR profile on Grants.gov and create a username and password. The assigned DUNS Number is required to complete this step. For more information about the registration process, go to: *www.grants.gov/applicants/get_registered.jsp.*

4. Acquire Authorization for the AOR from the E-Business Point of Contact (E-Biz POC). The E-Biz POC for the applicant must log in to Grants.gov to confirm the applicant as an AOR. Please note that there can be more than one AOR.

5. Search for the Funding Opportunity on Grants.gov. Applicants for this solicitation would use the Catalog of Federal Domestic Assistance number 20.205, titled Highway Planning and Construction, when searching for the ICM Deployment Planning Grant opportunity on Grants.gov.

6. Submit an Application Addressing All of the Requirements Outlined in this Funding Availability Announcement. Within 24 to 48 hours after submitting an electronic application, applicants should receive an email validation message from Grants.gov. The validation message will specify whether the application has been received and validated or rejected, with an explanation. Applicants are encouraged to submit applications at least 72 hours prior to the due date of the application to allow time to receive the validation message and to correct any problems that may have caused a rejection notification.

**Note:** When uploading attachments, applicants should use generally accepted formats such as .pdf, .doc, and .xls. While applicants may imbed picture files such as .jpg, .gif, .bmp, in your files, they should not save and submit the attachment in these formats. Additionally, the following formats will not be accepted: .com, .bat, .exe, .vbs, .cfg, .dat, .db, .dbf, .dll, .ini, .log, .ora, .sys, and .zip.

**Experiencing Unforeseen Grants.gov Technical Issues**

If an applicant experiences unforeseen Grants.gov technical issues beyond its control that prevent the submission of an application by the established deadline, such applicant must contact Grants.gov.

To ensure a fair competition for limited ICM Deployment Planning Grants, the following conditions are not valid reasons to permit late submissions: (1) Failure to complete the registration process before the deadline date; (2) failure to follow Grants.gov instructions on how to register and apply as posted on its Web site; (3) failure to follow all of the instructions in the funding availability notice; and (4) technical issues experienced with the applicant's computer or information technology environment.

**Background**

Section 53001 of MAP–21 (Pub. L. 112–141) created Section 513 of title 23, United States Code (23 U.S.C. 513) that authorizes the Secretary of Transportation to encourage and fund grants that support the deployment of ITS. The objective of the ICM Deployment Planning Grant program is to advance ICM planning and development efforts. With ICM, the various partner agencies manage the transportation corridor as a system, rather than the more traditional approach of managing individual assets. They work together to manage the corridor as an integrated system in order to improve travel time reliability and predictability, help manage congestion, and empower travelers through better information and more choices. This objective is consistent with the MAP–21 emphasis on accelerating technology and innovation deployment, and will contribute to agencies' ability to meet the system performance goals called for in MAP–21. It will be achieved by providing funding to support the recipients' application of ICM Knowledge and Technology Transfer (KTT) products including: ICM Implementation Guidance; Analysis, Modeling, and Simulation Guidance; Model System Engineering documents; and technology transfer activities such as technical support workshops and peer-to-peer support.

The expected output from a grant recipient would be one or more of the following:

- ICM Concept of Operations (ConOps);
- ICM System Requirements Specifications (SyRS);
- ICM Analysis, Modeling, and Simulation (AMS) Plan;
- ICM AMS Activity Findings Report; or
- ICM Implementation Plan.

Each funding recipient should also develop or update a Project Management Plan (PMP) and a System Engineering Management Plan (SEMP). These plans should be finalized and provided to the FHWA before initiation of any other activity funded through the formal agreement.

Each funding recipient should also provide a brief final report summarizing the effectiveness of the applicable KTT products in supporting their ICM development efforts.

Only one entity should be identified as the funding recipient for grant administration purposes. This entity is expected to coordinate with all appropriate transportation stakeholders, and is responsible for managing the grant and meeting the grant requirements to be defined in a formal agreement. Potential funding recipients may differ in their immediate technical or institutional need or challenge; therefore, the approach to advancing ICM and the expected output may differ.

More information on the ICM research initiative can be found at *http://www.its.dot.gov/icms/index.htm.*

Grant recipients are expected to meet a variety of basic qualifications. These ensure that grant recipients are capable of implementing ICM in their chosen corridor. Basic qualifications cover requisite technology and characteristics of the corridor such as:

1. Existing System Technology Base—participating agencies should have a basic level of management and operations capability upon which to

build. Applicants should describe the base level of technology in place in the specified corridor (See items 2 and 5 under How to Apply). This could include communications, data, data sharing, traffic management strategies, demand management strategies, traveler information, real-time corridor performance measurement, and analytical tools.

2. Alternate Routes or Modal Alternatives—the specified corridor should contain alternate routes to enable rerouting of traffic or alternative modes of travel (e.g., transit bus, rail, or HOV/HOT lanes). The applicant should discuss and address this requirement in the proposal (see items 1 and 2 under How to Apply).

3. Performance Issues—the specified corridor should have a variety of performance issues that can be addressed by integrated corridor management strategies. These issues should be identified and assessed by the applicant in the proposal (see item 3 under How to Apply). Examples include:

a. Congestion and system reliability—the specified corridor may contain considerable periods of congestion and unreliable travel times along critical corridor routes including transit routes; travelers may not have sufficient access to corridor performance information in order to make informed travel choices routinely or in certain situations.

b. Transit system reliability—performance of transit services in the specified corridor may be degraded due to other factors affecting performance of the corridor; the transit system may not have sufficient capacity or capability to meet unusual spikes in demand.

c. Commercial Vehicles—the specified corridor may contain considerable freight demands affecting the performance of the corridor.

d. Safety—the specified corridor may contain considerable safety issues caused by variable traffic demand, incidents, construction, weather, or other environmental or operational conditions affecting the performance of the corridor.

4. Institutional relationships and agreements—the transportation agencies with operational responsibility in the corridor should have a minimum level of institutional coordination that would indicate the potential success of ICM.

**How To Apply**

Formal proposals should include the following:

1. Description of the corridor—geography, State(s) involved, metropolitan area(s) encompassed, and other relevant information which the proposer deems important.

2. Transportation assets—describe the transportation assets, modes, and facilities within the corridor that the proposal will impact, including major highways, arterials, transit facilities, and existing ITS infrastructure.

3. Performance issues facing the corridor—types of transportation challenges facing the efficient and effective operation and management of transportation facilities and services in the corridor.

4. Membership of the existing or proposed organization that will lead to the development and operation of ICM—including specific organizations such as transportation agencies, State safety enforcement agencies, MPOs, tolling authorities, transit operators, etc., and existing or proposed charter, governance, and/or procedural documentation. All transportation agencies with operational responsibility in the corridor should be included. The application should demonstrate an inclusion and coordination of transportation facility owners and operators within and adjacent to the proposed corridor. Proposers do not necessarily have to have formed an existing corridor organization or coalition but should show evidence that a cooperative agreement, memorandum of understanding, or other organizational mechanism can be executed in a reasonable timeframe after selection.

5. Extent to which member agencies have integrated decisionmaking, operational, and data systems. This includes, but is not limited to, coordination or integration for routine operations, incident management, and other operational situations.

6. Related projects or programs in the Long Range Statewide Transportation Plan (LRSTP), Statewide Transportation Improvement Program (STIP), Metropolitan Transportation Plan (MTP), Transportation Improvement Plan (TIP), or Unified Planning Work Program (UPWP).

7. The vision of the organization and goals, objectives, and activities to be pursued in addressing the identified issues and challenges facing the corridor including a discussion of how the grant will accelerate or facilitate the achievement of the overall vision.

8. In order to demonstrate the success of the grant program the proposals should define project success factors and key performance indicators.

9. Initial Scope and Funding request—A complete list of activities to be funded by the request. The applicant must follow the systems engineering process as presented in FHWA's System Engineering Guidebook (*http://www.fhwa.dot.gov/cadiv/segb/*). The applicant must have in place a Project PMP and SEMP. If a PMP and/or a SEMP are not in place the recipient must develop or update a PMP and/or SEMP as part of this award.

10. The applicant should develop one or more of the following: ICM Concept of Operations, ICM System Requirements, ICM Analysis, Modeling and Simulation Plan, ICM Analysis, Modeling, and Simulation Activity Findings Report, or an ICM Implementation Plan.

a. In order to request funding for ICM Concept of Operations, the applicant should demonstrate the development of a multiagency and/or multimodal stakeholder group. The establishment of a multiagency and/or multimodal stakeholder group for the specified corridor should be demonstrated and approved by FHWA prior to reimbursement of any work effort on the ICM concept of operations

b. In order to request funding for ICM System Requirements, the applicant should show the development of a Concept of Operations. The ConOps should be completed and approved by FHWA prior to FHWA reimbursement of any work effort on ICM System Requirements.

c. In order to request funding for ICM Analysis, Modeling, and Simulation Plan or Activity, the applicant should the show the initiation or completion of a ConOps. The ConOps should be completed and approved by FHWA prior to FHWA reimbursement of any work effort on ICM Analysis, Modeling, and Simulation plan or activity.

d. In order to request funding for ICM Implementation Plan the applicant should show the initiation or completion of a ConOps and have an analysis approach established.

11. The proposal should include organizations and key staff involved, estimated costs, an identification of all funding sources that will supplement the requested funds and will be necessary to fully fund the request, and a timeline for completion of the activities to be supported. The maximum amount of funding requested from the ICM Deployment Planning Grant program should not exceed $200,000 nor should it exceed 80 percent of the total cost of the activities proposed to be funded by the ICM Deployment Planning Grant program. The proposal should identify the party or parties to the award, including a description of the entity that will be entering into the agreement with FHWA, and a description of how that

entity will process or manage the program funds. The term ''eligible entity'' means a State or local government, tribal government, transit agency, public toll authority, MPO, other political subdivision of a State or local government, or a multistate or multijurisdictional group applying through a single lead applicant.[1] Only one entity should be identified as the lead for grant administration purposes. Other transportation agencies are expected to partner with eligible entities to submit an application. (FHWA plans to administer these grants through the appropriate FHWA Division Offices.)

12. Proposals should include a description of the basic approach for an optional phase two deployment project. This should include, at a minimum, an implementation plan (or the approach to develop the implementation plan), and the relationship to the success factors identified above. If the DOT elects to proceed with phase two, it will provide a complete request for applications at that time. Proposals should not exceed 25 pages in length. Additional information supporting the application, such as maps, completed ICM planning documents, technical information, and letters of endorsement may be submitted as addenda to the application and will not count against the application page limit.

To ensure that all proposals receive fair and equal consideration for the limited available funds, the Department requires formal grant applications to be submitted to *http://www.grants.gov* by close of business December 31, 2013.

**Application for Optional Phase Two: How To Apply**

Upon the request of the DOT, successful initial recipients may submit an application for optional phase two funding. In addition to the information included in the initial application, the phase two application is expected to include, at a minimum:

1. Deployment project goals and objectives;
2. Description of deployment;
3. Approach to deployment design, build, and operate;
4. Development and application of analytical tools;
5. Schedule;
6. Risk mitigation summary; and
7. Scope.

**Evaluation Criteria for Phase One**

The ICM program has identified a series of criteria to help assess the potential for ICM in a corridor or region, and prioritize grant applicants. These criteria are intended to gauge how successful a potential grant recipient will be in delivering the expected output as described above. In addition, these criteria are intended to enable the ICM Program to prioritize among grant applicants. Listed in order of importance:

1. Overall effectiveness—how well the vision of the organization and the activities proposed address the transportation issues and challenges in the corridor, provide an integrated management perspective, and align with DOT goals.
2. Institutional collaboration—depth, clarity, and potential effectiveness of the organization's structure; evidence of commitments by key partners to participate.
3. Integrated strategies and systems—the level of integration and coordination already demonstrated for routine operations, incident management, and other operational conditions of the corridor. This criterion also incorporates data sharing among involved agencies.
4. Performance issues assessment—the identification and qualitative or quantitative assessment of the performance issues in the specified corridor to be addressed by the integrated corridor management system.
5. Availability and diversity of alternative routes or modes of travel in the specified corridor—enabling realistic options for travelers or freight providers.
6. Safety and weather—inclusion of safety issues on corridor; and safety and mobility impacts due to weather or environmental conditions considerations in the program or project.
7. Commercial vehicles—inclusion of commercial vehicle demand and freight movement considerations in the program or project.
8. Past Performance Related to ITS deployment—relevant examples of how the applicants have deployed, operated, and maintained ITS solutions that continue to provide safety, efficiency, mobility, and other benefits to corridor stakeholders and the general public.

**Evaluation Criteria for Optional Phase Two Funding**

In addition to the evaluation criteria for the initial funding, the following criteria may be used to evaluate optional phase two funding.

1. Performance indicators—How well did the phase one deliverable meet the project success factors and key performance indicators identified in the initial application.
2. Potential benefits—Potential of the system to demonstrate measureable benefits including availability of measurable objectives for ICM within the corridor; use of appropriate ITS strategies for implementation, matched to goals and objectives for the Demonstration System; and well-defined and appropriate corridor-level performance measures.
3. Alignment of deployment project to goals and objectives in the LRSTP, STIP, MTP, TIP, or UPWP.
4. Quality of the proposed deployment—Clarity and depth of understanding documented in the ConOps; Quality of the SyRS; Documented understanding of the complexity of the proposed integration of all new and existing subsystems for an ICMS; Description and availability of data required to calculate performance measures; Clear identification of standards necessary to support an ICMS.
5. ICM Implementation Plan—Overall approach for the implementation of ICM including the quality of the implementation schedule; i.e., the realism of the project schedule, and the relative size of the risks associated with the system implementation and clear ability to mitigate the risk factors.

**Post-Submission Process**

Applicants may be contacted for additional information or clarification. The application should include a primary point of contact and provide complete contact information for this individual.

The Department may pursue partial funding of applications.

If selected for funding, a formal agreement will be prepared between the Department and the lead agency applicant. The agreement will include information in addition to what has already been provided in the applications, such as a refined and more detailed scope of work.

Issued on: October 21, 2013.

**Victor M. Mendez,**

*FHWA Administrator.*

[FR Doc. 2013–26057 Filed 10–31–13; 8:45 am]

BILLING CODE 4910–22–P

[1] 23 U.S.C. 513(a)(1).

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[FMCSA Docket No. FMCSA–2013–0183]**

### Qualification of Drivers; Exemption Applications; Diabetes Mellitus

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

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA announces its decision to exempt 23 individuals from its rule prohibiting persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in interstate commerce. The exemptions will enable these individuals to operate CMVs in interstate commerce.

**DATES:** The exemptions are effective November 1, 2013. The exemptions expire on November 1, 2015.

**FOR FURTHER INFORMATION CONTACT:** Elaine M. Papp, Chief, Medical Programs Division, (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:**

## 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:* Anyone may search the electronic form of all comments received into any of DOT's dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, or other entity). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

## Background

On August 19, 2013, FMCSA published a notice of receipt of Federal diabetes exemption applications from 23 individuals and requested comments from the public (78 FR 50482). The public comment period closed on September 18, 2013, and one comment was received.

FMCSA has evaluated the eligibility of the 23 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).

## 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 23 applicants have had ITDM over a range of 1 to 30 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 August 19, 2013, **Federal Register** notice and they will not be repeated in this notice.

## Discussion of Comments

FMCSA received one comment in this proceeding. The comment is considered and discussed below.

The Pennsylvania Department of Transportation is in favor of granting an exemption to David G. Peters after reviewing his driving history.

## 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.

## 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.

## Conclusion

Based upon its evaluation of the 23 exemption applications, FMCSA exempts John K. Abels (IL), Edmund Arays (OH), Dean A. Bacon (IN), Philip E. Banks (OH), Anthony M. Brida (NJ), Ronald H. Cathey (TX), William H.

Conley (IN), Charles E. Dailey (AL), Kenneth D. Denny (WA), Kenneth D. Ferguson (WA), Adam M. Hogue (MS), Allen D. LaFave (ND), Greg P. Mason (NY), Thomas D. Miller (MT), Douglas A. Mulligan (KY), David G. Peters (PA), Robert J. Rispoli, Jr. (NY), Mike P. Senn (MN), James H. Suttles (AL), Steven L. Tallaksen (MO), Douglas M. Tiller, Sr. (VA), Gregory F. Wendt (NE), and Michael J. Wickstrom (MI) from the ITDM requirement in 49 CFR 391.41(b)(3), subject to the conditions listed under ''Conditions and Requirements'' above.

In accordance with 49 U.S.C. 31136(e) and 31315 each exemption will be 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 1/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: October 25, 2013.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2013–26087 Filed 10–31–13; 8:45 am]

**BILLING CODE 4910–EX–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

### Limitation on Claims Against Proposed Public Transportation Projects

**AGENCY:** Federal Transit Administration (FTA), DOT.

**ACTION:** Notice.

**SUMMARY:** This notice announces final environmental actions taken by the Federal Transit Administration (FTA) for a project in Honolulu, HI. The purpose of this notice is to announce publicly the environmental decisions by FTA on the subject project and to activate the limitation on any claims that may challenge these final environmental actions.

**DATES:** By this notice, FTA is advising the public of final agency actions subject to Section 139(l) of Title 23, United States Code (U.S.C.). A claim seeking judicial review of the FTA actions announced herein for the listed public transportation project will be barred unless the claim is filed on or before March 31, 2014.

**FOR FURTHER INFORMATION CONTACT:** Nancy-Ellen Zusman, Assistant Chief Counsel, Office of Chief Counsel, (312) 353–2577 or Terence Plaskon, Environmental Protection Specialist, Office of Human and Natural Environment, (202) 366–0442. FTA is located at 1200 New Jersey Avenue SE., Washington, DC 20590. Office hours are from 9:00 a.m. to 5:30 p.m., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that FTA has taken final agency actions by issuing certain approvals for the public transportation project listed below. The actions on the project, as well as the laws under which such actions were taken, are described in the documentation issued in connection with the project to comply with the National Environmental Policy Act (NEPA) and in other documents in the FTA administrative record for the project. Interested parties may contact either the project sponsor or the relevant FTA Regional Office for more information on the project. Contact information for FTA's Regional Offices may be found at *http://www.fta.dot.gov.*

This notice applies to all FTA decisions on the listed project as of the issuance date of this notice and all laws under which such actions were taken, including, but not limited to, NEPA [42 U.S.C. 4321–4375] and Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303]. This notice does not alter or extend the limitation period for challenges of project decisions subject to previous notices for the Honolulu High-Capacity Transit Corridor Project published in the **Federal Register**. The project and actions that are the subject of this notice are:

*Project name and location:* Honolulu Rail Transit Project, City and County of Honolulu, O'ahu, HI. *Project sponsor:* Honolulu Authority for Rapid Transportation (HART). *Project description:* The Honolulu Rail Transit Project (Project) is a 20-mile grade-separated, fixed-guideway rail transit project that extends from Kapolei to Ala Moana Center, via the Honolulu waterfront. In June 2010, the FTA and City and County of Honolulu (City) prepared and distributed a Final Environmental Impact Statement/Section 4(f) Evaluation [EIS/4(f)] for the Project, which was then called the Honolulu High-Capacity Transit Corridor Project. The Final EIS/4(f) identified environmental impacts and mitigations for the Project, including the use of properties protected under Section 4(f) of the Department of Transportation Act. In January 2011, the FTA issued a Record of Decision (ROD) for the Project. Subsequently, the FEIS and ROD were challenged in federal court. On November 1, 2012, the Court issued a Judgment and Partial Injunction Order (Judgment) of the United States District Court for the District of Hawai'i (Court) in *HonoluluTraffic.com et al.* v. *Federal Transit Administration et al., 2012 WL 5386595* (D. Haw. 2012). Pursuant to that decision, the FTA prepared additional analysis for the Project. The FTA prepared a draft version and final version Supplemental EIS/4(f). The Supplemental EIS/4(f) was limited in its scope. Thus, the FTA issued the Final Supplemental EIS/Section 4(f) concurrently with an Amended ROD per Public Law 112–141, 126 Stat. 405, Section 1319(b). This notice only applies to the discrete actions taken by the FTA at this time. Nothing in this notice affects the FTA's previous decisions, or notice thereof, for this project. *Final agency actions:* Section 4(f) determination and Amended Record of Decision, dated September 30, 2013. *Supporting documentation:* Final Supplemental Environmental Impact Statement/Section 4(f) Evaluation, dated September 30, 2013.

**Lucy Garliauskas,**

*Associate Administrator for Planning and Environment.*

[FR Doc. 2013–25972 Filed 10–31–13; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

**[Docket No. NHTSA–2013–0103, Notice 1]**

### Notice of Receipt of Petition for Decision That Nonconforming 1992 Jeep Wrangler Multi-Purpose Vehicles Are Eligible for Importation

**AGENCY:** National Highway Traffic Safety Administration, DOT.

**ACTION:** Notice of receipt of petition.

**SUMMARY:** This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that nonconforming 1992 Jeep Wrangler Multi-Purpose Passenger Vehicles that were not originally manufactured to comply with all applicable Federal Motor Vehicle Safety Standards (FMVSS), are eligible for importation into the United States because they are substantially similar to vehicles that were originally manufactured for sale in the United States and that were certified

by their manufacturer as complying with the safety standards (1992 Jeep Wrangler Multi-Purpose Passenger Vehicles) and they are capable of being readily altered to conform to the standards.

**DATES:** The closing date for comments on the petition is December 2, 2013.

**ADDRESSES:** Comments should refer to the docket and notice numbers above and be submitted by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251

*Instructions:* Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

*Privacy Act:* Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

*How to Read Comments submitted to the Docket:* You may read the comments received by Docket Management at the address and times given above. You may also view the documents from the Internet at *http://www.regulations.gov*. Follow the online instructions for accessing the dockets. The docket ID number and title of this notice are shown at the heading of this document notice. Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically search the Docket for new material.

**FOR FURTHER INFORMATION CONTACT:** George Stevens, Office of Vehicle Safety Compliance, NHTSA (202–366–5308).

**SUPPLEMENTARY INFORMATION:**

## Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable FMVSS shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. § 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable FMVSS.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

US Specs, of Havre De Grace, MD (Registered Importer R–03–321) has petitioned NHTSA to decide whether nonconforming 1992 Jeep Wrangler Multi-Purpose Passenger Vehicles are eligible for importation into the United States. The vehicles which US Specs believes are substantially similar are 1992 Jeep Wrangler Multi-Purpose Passenger Vehicles that were manufactured for sale in the United States and certified by their manufacturer as conforming to all applicable FMVSS.

The petitioner claims that it compared non-U.S. certified 1992 Jeep Wrangler Multi-Purpose Passenger Vehicles to their U.S.-certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most FMVSS.

US Specs submitted information with its petition intended to demonstrate that non-U.S. certified 1992 Jeep Wrangler Multi-Purpose Passenger Vehicles, as originally manufactured, conform to many FMVSS in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards. Specifically, the petitioner claims that non-U.S. certified 1992 Jeep Wrangler Multi-Purpose Passenger Vehicles are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence, Starter Interlock, and Transmission Braking Effect,* 103 *Windshield Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 105 *Hydraulic and Electric Brake Systems,* 106 *Brake Hoses,* 107 *Reflecting Surfaces,* 113 *Hood Latch System,* 116 *Motor Vehicle Brake Fluids,* 124 *Accelerator Control Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 207 *Seating Systems,* 210 *Seat Belt Assembly Anchorages,* 211 *Wheel Nuts, Wheels Disks, and Hub Caps,* 212 *Windshield Mounting,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* 301 *Fuel System Integrity,* and 302 *Flammability of Interior Materials.*

The petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* Modification or replacement of the speedometer to read in miles per hour (MPH) if the vehicle is not already so equipped and replacement of the ECE warning symbol on the brake failure indicator light with the word ''BRAKE'' to comply with this standard.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* Replacement of the headlamps, side marker lights, turn signal/park lights, front and rear reflex reflectors, and stop lamps with U.S.-model components if the vehicle is not already so equipped.

Standard No. 111 *Rearview Mirrors:* Replacement of the passenger side rearview mirror with a U.S.-model component or inscription of the required warning statement on the face of that mirror.

Standard No. 114 *Theft Protection and Rollaway Prevention:* Installation or reprogramming of the warning buzzer to meet this standard if the vehicle is not already so equipped.

Standard No. 118 *Power Operated Window, Partition, and Roof Panel Systems:* Installation of the window systems to ensure they meet the requirements of this standard and rewiring there systems to meet the standard if necessary.

Standard No. 119 *New Pneumatic Tires for Vehicles Other Than Passenger*

*Cars:* Inspection of vehicle and installation of conforming tires if the vehicle is not already so equipped.

Standard No. 120 *Tire Selection for Vehicles Other Than Passenger Vehicles:* Installation of an information placard containing manufacturer specifications for seating capacity and loading, and tire specifications if the vehicle is not already so equipped.

Standard No. 206 *Door Locks and Door Retention Components:* Inspection of door locks and retention components and installation of conforming parts from U.S. Vehicle if the vehicle is not already so equipped.

Standard No. 208 *Occupant Crash Protection:* Installation of seat belt lamp and audible warning buzzer if the vehicle is not already so equipped.

Standard No. 209 *Seat Belt Assemblies:* Inspection of seat belts and installation of U.S. model parts if the vehicle is not already so equipped.

The petitioner states that the VIN plate must also beinstalled on the left front corner of the dashboard to meet the requirements of 49 CFR Part 565.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above addresses both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

**Authority:** 49 U.S.C. 30141(a)(1)(A), (a)(1)(B), and (b)(1); 49 CFR 593.7; delegation of authority at 49 CFR 1.95 and 501.8.

Issued on: October 29, 2013.

**Claude H. Harris,**

*Director, Office of Vehicle Safety Compliance.*

[FR Doc. 2013–26101 Filed 10–31–13; 8:45 am]

**BILLING CODE 4910–59–P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

**[Docket No. NHTSA–2013–0104; Notice 1]**

### Receipt of Petition for Decision That Nonconforming 2011–2012 BMW S1000RR Motorcycles Are Eligible for Importation

**AGENCY:** National Highway Traffic Safety Administration, DOT.

**ACTION:** Notice of receipt.

**SUMMARY:** This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 2011–2012 BMW S1000RR Motorcycles that were not originally manufactured to comply with all applicable Federal Motor Vehicle Safety Standards (FMVSS) are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

**DATES:** The closing date for comments on the petition is December 2, 2013.

**ADDRESSES:** Comments should refer to the docket and notice numbers above and be submitted by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

*Instructions:* Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided. Please see the Privacy Act heading below.

*Privacy Act:* Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

*How to Read Comments Submitted to the Docket:* You may read the comments received by Docket Management at the address and times given above. You may also view the documents from the Internet at *http://www.regulations.gov.* Follow the online instructions for accessing the dockets. The docket ID number and title of this notice are shown at the heading of this document notice. Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically search the Docket for new material.

**FOR FURTHER INFORMATION CONTACT:** George Stevens, Office of Vehicle Safety Compliance, NHTSA (202–366–5308).

**SUPPLEMENTARY INFORMATION:**

### Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable FMVSS shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable FMVSS.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

J.K. Technologies, LLC. (''J.K.''), of Baltimore, Maryland (Registered Importer RI–90–006) has petitioned NHTSA to decide whether non-U.S. certified 2011–2012 BMW S1000RR motorcycles are eligible for importation into the United States. The vehicles that J.K. believes are substantially similar are 2011–2012 BMW S1000RR motorcycles that were manufactured for sale in the United States and certified by their manufacturer as conforming to all applicable FMVSS.

The petitioner claims that it carefully compared non-U.S. certified 2011–2012 BMW S1000RR motorcycles to their U.S. certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most FMVSS.

J.K. submitted information with its petition intended to demonstrate that non-U.S. certified 2011–2012 BMW S1000RR motorcycles, as originally manufactured, conform to many FMVSS in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 2011–2012 BMW S1000RR motorcycles are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 106 *Brake Hoses,* 111 *Rearview Mirrors,* 116 *Brake Fluid,* 119 *New Pneumatic Tires for Vehicles other than Passenger Cars,* 122 *Motorcycle Brake Systems,* and 205 *Glazing Materials.*

The petitioner further contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated below:

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* Installation of the following U.S.-model components: front amber reflectors, rear red reflectors, front head lamp, and rear stop lamp.

Standard No. 120 *Tire Selection and Rims for Vehicles other than Passenger Cars:* Installation of a tire information placard.

Standard No. 123 *Motorcycle Controls and Displays:* Installation of a U.S.-model instrument cluster.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above addresses both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

**Authority:** 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.95 and 501.8.

Dated: October 29, 2013.

**Claude H. Harris,**

*Director, Office of Vehicle Safety Compliance.*

[FR Doc. 2013–26129 Filed 10–31–13; 8:45 am]

BILLING CODE 4910–59–P

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

**[Docket No. NHTSA–2013–0036; Notice 1]**

### Notice of Receipt of Petition for Decision That Nonconforming 2012 Ahlm SBT 16–25 Trailers Are Eligible for Importation

**AGENCY:** National Highway Traffic Safety Administration, DOT.

**ACTION:** Receipt of petition.

**SUMMARY:** This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 2012 Ahlm SBT 16–25 trailers that were not originally manufactured to comply with all applicable Federal Motor Vehicle Safety Standards (FMVSS) are eligible for importation into the United States because they have safety features that comply with, or are capable of being altered to comply with, all such standards.

**DATES:** The closing date for comments on the petition is December 2, 2013.

**ADDRESSES:** Comments should refer to the docket and notice numbers above and be submitted by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

*Instructions:* Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

*Privacy Act:* Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

*How to Read Comments submitted to the Docket:* You may read the comments received by Docket Management at the address and times given above. You may also view the documents from the Internet at *http://www.regulations.gov.*

Follow the online instructions for accessing the dockets. The docket ID number and title of this notice are shown at the heading of this document notice. Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically search the Docket for new material.

**FOR FURTHER INFORMATION CONTACT:** George Stevens, Office of Vehicle Safety Compliance, NHTSA (202–366–5308).

**SUPPLEMENTARY INFORMATION:**

### Background

Under 49 U.S.C. 30141(a)(1)(B), a motor vehicle, including a trailer, that was not originally manufactured to conform to all applicable FMVSS, and has no substantially similar U.S.-certified counterpart, shall be refused admission into the United States unless NHTSA has decided that the motor vehicle has safety features that comply with, or are capable of being altered to comply with, all applicable FMVSS based on destructive test data or such other evidence as NHTSA decides to be adequate.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Skytop Rover Co. of Philadelphia, PA (Registered Importer 06–343) has petitioned NHTSA to decide whether nonconforming 2012 Ahlm SBT 16–25 trailers are eligible for importation into

the United States. Skytop Rover submitted information with its petition intended to demonstrate that 2012 Ahlm SBT 16–25 trailers are capable of being altered to comply with all standards to which they were not originally manufactured to conform. The petitioner contends that the nonconforming 2012 Ahlm SBT 16–25 trailers meet or are capable of being altered to meet the following standards, in the manner indicated:

Standard No. 106—*Brake Hoses:* Conforming hoses were purchased and installed during manufacture.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* The vehicle was equipped with a conforming 12-volt electrical system during manufacture. Conforming conspicuity tape and lights were installed during manufacture in a manner conforming to the standard.

Standard No. 119 *New Pneumatic Tires for Vehicles Other Than Passenger Cars:* The vehicle is equipped with tires conforming to the requirements of the standard.

Standard No. 120 *Tire Selection and Rims for Motor Vehicles Other Than Passenger Cars:* The vehicle will have a tire and rim information placard installed to meet the requirements of the standard.

Standard No. 121 *Air Brake Systems:* The vehicle was manufactured with an integrated axle, suspension, and brake package installed. The petitioner submitted test reports to validate that the system conforms to the requirements of the standard.

Standard No. 223 *Rear Impact Guards:* The petitioner provided test results for the rear impact guard to show that it conforms to the standard.

Standard No. 224 *Rear Impact Protection:* The vehicle was manufactured with a conforming rear impact guard, with the required label, installed in a manner consistent with the impact guard manufacturer's instructions.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above addresses both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

**Authority:** 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.95 and 501.8.

Issued on: October 29, 2013.

**Claude H. Harris,**

*Director, Office of Vehicle Safety Compliance.*

[FR Doc. 2013–26100 Filed 10–31–13; 8:45 am]

**BILLING CODE 4910–59–P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

**[Docket No. NHTSA–2013–0039; Notice 1]**

### General Motors, LLC, Receipt of Petition for Decision of Inconsequential Noncompliance

**AGENCY:** National Highway Traffic Safety Administration, DOT.

**ACTION:** Receipt of Petition.

**SUMMARY:** General Motors, LLC (GM) has determined that certain model year (MY) 2013 Chevrolet Equinox multipurpose passenger vehicles (MPVs) manufactured on January 24, 2013 do not fully comply with paragraph S6 of Federal Motor Vehicle Safety Standard (FMVSS) No. 205, *Glazing Materials.* GM has filed an appropriate report dated February 22, 2013, pursuant to 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports.*

**DATES:** December 2, 2013.

**ADDRESSES:** Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited at the beginning of this notice and be submitted by any of the following methods:

- *Mail:* Send comments by mail addressed to: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand delivery:* Deliver comments by hand to: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except Federal Holidays.
- *Electronically:* Submit comments electronically by: logging onto the Federal Docket Management System (FDMS) Web site at *http://www.regulations.gov/.* Follow the online instructions for submitting comments. Comments may also be faxed to (202) 493–2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Documents submitted to a docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at *http://www.regulations.gov* by following the online instructions for accessing the dockets. DOT's complete Privacy Act Statement is available for review in the **Federal Register** published on April 11, 2000, (65 FR 19477–78).

The petition, supporting materials, and all comments received before the close of business on the closing date indicated below will be filed and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice of the decision will be published in the **Federal Register** pursuant to the authority indicated below.

**SUPPLEMENTARY INFORMATION:**

*I. GM's Petition:* Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR Part 556), GM submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of GM's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

*II. Vehicles Involved:* Affected are approximately 170 MY 2013 Chevrolet Equinox MPVs manufactured on January 24, 2013.

*III. Noncompliance:* GM explains that the noncompliance is that the vehicles are equipped with left-rear quarter windows that do not fully comply with the marking requirements specified in paragraph S6 of FMVSS No. 205.

GM further explained that the subject vehicles may be purchased with either solar glazing (having light transmittance greater than 70%) or privacy glazing (having light transmittance of approximately 22%) installed rearward of the driver. On the affected vehicles, the left-rear quarter window is privacy

glazing; however it has markings appropriate for solar glazing. The correct privacy-glass markings and the markings on the affected quarter windows are as follows:

The specific noncompliance to FMVSS No. 205 on the subject quarter windows is the AS2 designation (instead of AS3) and the M504 model designation (instead of M513). The transmissibility value on the subject windows is also incorrect (70% instead of 22%); however, this information is not specified by FMVSS No. 205 and therefore is not a compliance issue.

*IV. Rule Text:* Paragraph S6 of FMVSS No. 205 specifically states:

S6. *Certification and marking.*

S6.1A prime glazing material manufacturer must certify, in accordance with 49 U.S.C. 30115, each piece of glazing material to which this standard applies that is designed—

(a) As a component of any specific motor vehicle or camper; or

(b) To be cut into components for use in motor vehicles or items of motor vehicle equipment.

S6.2A prime glazing manufacturer certifies its glazing by adding to the marks required by section 7 of ANSI/SAE Z26.1–1996, in letters and numerals of the same size, the symbol ''DOT'' and a manufacturer's code mark that NHTSA assigns to the manufacturer. NHTSA will assign a code mark to a manufacturer after the manufacturer submits a written request to the Office of Vehicle Safety Compliance, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590. The request must include the company name, address, and a statement from the manufacturer certifying its status as a prime glazing manufacturer as defined in S4.

S6.3A manufacturer or distributor who cuts a section of glazing material to which this standard applies, for use in a motor vehicle or camper, must—

(a) Mark that material in accordance with section 7 of ANSI/SAE Z26.1–1996; and

(b) Certify that its product complies with this standard in accordance with 49 U.S.C. 30115.

*Summary of GM's Analyses:* GM stated its belief that this noncompliance is inconsequential to motor vehicle safety for the following reasons:

1. The subject glazing meets all applicable performance requirements of FMVSS No. 205. There is no safety performance implication associated with this technical noncompliance.

2. In addition to meeting all of the component-level performance requirements of FMVSS No. 205, the subject glazing also fully meets the vehicle-level installation requirements specified by FMVSS No. 205. The subject tempered-glass glazing at 22% transmissibility is permitted in the left-rear quarter window location on the affected vehicles.

3. The actual transmissibility of the subject glazing (approximately 22%) is consistent with all other glazing rearward of the driver (i.e., the rear side windows, the back window, and the right-side rear quarter glazing) on the affected vehicles. Accordingly, there is no reason for the customer, state inspection authorities, service personnel, or anyone else to focus on or detect any distinction involving the subject left-side rear quarter window.

4. None of the subject population of glazing will be available as service parts. Therefore, if service replacement of the left-rear quarter window on an affected vehicle is required, the replacement part would be correct and properly labeled in accordance with all FMVSS No. 205 requirements.

5. Even in the extremely unlikely event that a glazing corresponding to the incorrect markings (i.e., solar glazing with 70% transmittance) was installed on an affected vehicle, this would also be fully compliant to all requirements of FMVSS No. 205, including the component-level, vehicle-level and marking requirements of the standard.

GM also stated its belief that NHTSA has previously granted inconsequential treatment for FMVSS No. 205 marking noncompliances.

GM has additionally informed NHTSA that it has corrected the noncompliance so that all future production vehicles will comply with FMVSS No. 205.

In summation, GM believes that the described noncompliance of its vehicles is inconsequential to motor vehicle safety, and that its petition, to exempt from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, these provisions only apply to the 170 vehicles that GM no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction for delivery or introduction into interstate commerce of the noncompliant vehicles under their control after GM notified them that the subject noncompliance existed.

**Authority:** (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

Issued on: October 29, 2013.

**Claude H. Harris,**

*Director, Office of Vehicle Safety Compliance.*

[FR Doc. 2013–26096 Filed 10–31–13; 8:45 am]

BILLING CODE 4910–59–P

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

**[Docket No. NHTSA–2013–0081; Notice 1]**

### General Motors, LLC, Receipt of Petition for Decision of Inconsequential Noncompliance

**AGENCY:** National Highway Traffic Safety Administration, DOT.

**ACTION:** Receipt of Petition.

**SUMMARY:** General Motors, LLC (GM) has determined that certain model year 2013 Cadillac XTS passenger cars do not fully comply with paragraph S9.1.1 of Federal Motor Vehicle Safety Standard (FMVSS) No. 108, *Lamps, Reflective Devices, and Associated Equipment.* GM has filed an appropriate report dated May 16, 2013, pursuant to 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports.*

**DATES:** December 2, 2013.

**ADDRESSES:** Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited at the beginning of this notice and be submitted by any of the following methods:

- *Mail:* Send comments by mail addressed to: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* Deliver comments by hand to: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except Federal Holidays.
- *Electronically:* Submit comments electronically by: logging onto the Federal Docket Management System (FDMS) Web site at *http://www.regulations.gov/.* Follow the online instructions for submitting comments. Comments may also be faxed to (202) 493–2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Documents submitted to a docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at *http://www.regulations.gov* by following the online instructions for accessing the dockets. DOT's complete Privacy Act Statement is available for review in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

The petition, supporting materials, and all comments received before the close of business on the closing date indicated below will be filed and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice of the decision will be published in the **Federal Register** pursuant to the authority indicated below.

**SUPPLEMENTARY INFORMATION:**

*I. GM's Petition:* Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR Part 556), GM submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of GM's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

*II. Vehicles Involved:* Affected are approximately 24,139 model year 2013 Cadillac XTS passenger cars manufactured from February 2, 2012 to May 2, 2013.

*III. Noncompliance:* GM has determined that the turn signal in the subject vehicles does not fully comply with paragraph S9.1.1 of FMVSS No. 108, which requires an active turn signal to cancel when the steering wheel is rotated. On some of the vehicles, the turn signal may occasionally not self-cancel by steering wheel rotation. The turn signal can be cancelled manually.

*IV. Rule Text:* Paragraph S9.1.1 of FMVSS No. 108 specifically states:

S9.1 Turn signal operating unit.

S9.1.1 The turn signal operating unit installed on passenger cars, multipurpose passenger vehicles, trucks, and buses less than 2032 mm in overall width must be self-canceling by steering wheel rotation and capable of cancellation by a manually operated control.

*V. Summary of GM's Analyses:* GM stated its belief that the subject noncompliance is inconsequential to motor vehicle safety for the following reasons:

This condition is inconsequential to motor vehicle safety for the following reasons:

1. Manual operation of the turn signal is unaffected. The driver can manually cancel the turn signal in the rare event the self-cancelling feature does not work.

2. If the turn signal does not self-cancel, the driver is alerted to the fact that the turn signal remains on through multiple means:

a. The turn signal telltale continues to flash;

b. The audible turn signal indicator persists as long as the turn signal is active;

c. The redundant turn signals (mounted on the outer edge of both outboard mirrors) that are visible to the driver continue to flash as long as the turn signal is active;

d. After traveling 3/4 of mile with the turn signal active, a Driver Information Center message, ''TURN SIGNAL ON,'' is displayed indicating a turn signal has been left on; and

e. The DIC message is accompanied by a single chime to alert the driver to the DIC message indicating the turn signal is still active.

3. GM records as of the week of 13 May 2013 indicate the condition declares itself early and is nearly always repaired within the first few months of service.

a. GM does not have a specific labor code for the subject condition. Through a search of all possibly related labor codes, GM found nineteen repairs that might possibly be associated with subject condition. Even conservatively including all nineteen repairs as related to the subject condition, the resulting warranty rate is projected very low at 1.8 IPTV in 36 Month in Service.

b. Of the nineteen repairs, five were repaired prior to customer delivery and nine were repaired in the first 2 months in service.

4. NHTSA has previously granted petitions for inconsequential that are similar to the subject noncompliance.

GM has additionally informed NHTSA that it has corrected the noncompliance so that all future production vehicles will comply with FMVSS No. 108.

In summation, GM believes that the described noncompliance of the subject vehicles is inconsequential to motor vehicle safety, and that its petition, to exempt from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, these provisions only apply to the subject 24,139 vehicles that GM no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction for delivery or introduction into interstate commerce of the noncompliant vehicles under their control after GM notified them that the subject noncompliance existed.

**Authority:** (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

Issued on: October 29, 2013.

**Claude H. Harris,**

*Director, Office of Vehicle Safety Compliance.*

[FR Doc. 2013–26078 Filed 10–31–13; 8:45 am]

**BILLING CODE 4910–59–P**

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

**[Docket No. FD 35775]**

### Union Pacific Railroad Company—Trackage Rights Exemption—CSX Transportation, Inc.

CSX Transportation, Inc. (CSXT), pursuant to a written agreement dated September 4, 2013, has agreed to grant overhead trackage rights to Union Pacific Railroad Company (UP) on the Elsdon Subdivision, between milepost 19.3 at Blue Island, Ill. and milepost

31.07 at Munster, Ind., a distance of approximately 11.77 miles.[1]

The transaction is scheduled to be consummated on or after November 16, 2013, the effective date of the exemption (30 days after the exemption was filed).

The purpose of the transaction is to permit UP to continue to move traffic for interchange with GTW and its affiliated railroads on a permanent basis, following the March 10, 2013 acquisition by CSXT of an operating easement over the Elsdon Subdivision from GTW.[2]

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk & Western Railway—Trackage Rights—Burlington Northern, Inc.,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Railway—Lease & Operate—California Western Railroad,* 360 I.C.C. 653 (1980). This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed by November 8, 2013 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35775, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Jeremy Berman, Union Pacific Railroad Company, 1400 Douglas Street, STOP 1580, Omaha, NE 68179.

Board decisions and notices are available on our Web site at ''*WWW.STB.DOT.GOV.*''

Decided: October 29, 2013.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

**Jeffrey Herzig,**

*Clearance Clerk.*

[FR Doc. 2013–26050 Filed 10–31–13; 8:45 am]

**BILLING CODE 4915–01–P**

[1] The overhead trackage rights covered by this Notice include the right for UP to enter and exit the subject trackage at: (1) CSXT's connection with GTW at or near milepost 31.07 (Munster) on the Elsdon Subdivision in Munster, Ind.; (2) CSXT's northeast connection with UP at or near milepost 25.20 (Thornton Junction) on the Elsdon Subdivision in Thornton, Ill.; (3) CSXT's connection with Grand Trunk Western Railroad Company (GTW) at or near milepost 23.2 (CN Junction) on the Elsdon Subdivision in Harvey, Ill.; (4) CSXT's connection with the Indiana Harbor Belt Railroad Company at or near milepost 19.3 (B.I. Junction) on the Elsdon Subdivision in Blue Island, Ill.; and (5) any other existing or new location(s) that the parties may mutually agree upon.

A redacted trackage rights agreement between UP and CSXT was filed with the notice of exemption. An unredacted version was filed under seal along with a motion for protective order, which will be addressed in a separate decision.

[2] *See CSX Transp. Inc.—Acquis. Of Operating Easement—Grand Trunk W. R.R.,* FD 35522 (STB served Feb. 8, 2013).

## DEPARTMENT OF THE TREASURY

### Office of the Comptroller of the Currency

### Agency Information Collection Activities: Information Collection Renewal; Submission for OMB Review; Licensing Manual

**AGENCY:** Office of the Comptroller of the Currency (OCC), Treasury.

**ACTION:** Notice and request for comment.

**SUMMARY:** The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on an information collection renewal, as required by the Paperwork Reduction Act of 1995 (PRA). An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid OMB control number.

The OCC is soliciting comment concerning its information collection titled, ''Comptroller's Licensing Manual.'' The OCC is also giving notice that it has sent the collection to OMB for review.

**DATES:** You should submit written comments by December 2, 2013.

**ADDRESSES:** Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by email if possible. Comments may be sent to: Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Attention: 1557–0014, 400 7th Street SW., Suite 3E–218, Mail Stop 9W–11, Washington, DC 20219. In addition, comments may be sent by fax to (571) 465–4326 or by electronic mail to *regs.comments@occ.treas.gov.* You may personally inspect and photocopy comments at the OCC, 400 7th Street SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

All comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Additionally, please send a copy of your comments by mail to: OCC Desk Officer, 1557–0014, U.S. Office of Management and Budget, 725 17th Street NW., #10235, Washington, DC 20503, or by email to: *oira_submission@omb.eop.gov.*

**FOR FURTHER INFORMATION CONTACT:** You can request additional information or a copy of the collection from Johnny Vilela or Mary H. Gottlieb, OCC Clearance Officers, (202) 649–5490, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW., Washington, DC 20219.

**SUPPLEMENTARY INFORMATION:** The OCC is requesting an extension, without change, of the following information collection:

*Title:* Comptroller's Licensing Manual.

*OMB Number:* 1557–0014.

*Description:* This submission covers an existing manual and involves no change to the manual or to the information collection requirements. The information collection requirements ensure that national banks and Federal savings associations conduct their operations in a safe and sound manner and in accordance with applicable Federal banking statutes and regulations. The information is necessary for regulatory and examination purposes.

*The Comptroller's Licensing Manual* (Manual) sets forth the OCC's policies and procedures for the formation of a new national bank, Federal savings association, or Federal branch or agency; entry into the Federal banking system by other institutions; and corporate expansion and structural changes by existing national banks and Federal savings associations. The Manual includes sample documents to assist the respondent in understanding the types of information the OCC needs in order to process a filing. An applicant may use the format of the sample documents or any other format that provides sufficient information for the OCC to act on a particular filing, including for national banks, the OCC's e-Corp filing system.

*Type of Review:* Regular.

*Affected Public:* Individuals or households; Businesses or other for-profit.

*Estimated Number of Respondents:* 3,831.

*Estimated Total Annual Responses:* 3,831.

*Frequency of Response:* On occasion.

*Estimated Total Annual Burden:* 12,174 hours.

The OCC issued a notice concerning this collection for 60 days of comment on August 19, 2013 (78 FR 50491). No comments were received. Comments continue to be invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;

(b) The accuracy of the agency's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: October 28, 2013.

**Stuart E. Feldstein,**

*Director, Legislative and Regulatory Activities Division.*

[FR Doc. 2013–26199 Filed 10–31–13; 8:45 am]

**BILLING CODE 4810–33–P**

## DEPARTMENT OF THE TREASURY

### Financial Crimes Enforcement Network

### Information Collection Proposed Renewal Without Change; Comment Request; Anti-Money Laundering Programs; Due Diligence Programs for Correspondent Accounts for Foreign Financial Institutions

**AGENCY:** Financial Crimes Enforcement Network, Department of the Treasury.

**ACTION:** Request for comments.

**SUMMARY:** As part of our continuing effort to reduce paperwork and respondent burden, we invite comment on a proposed renewal, without change, to an information collection found in existing regulations requiring U.S. financial institutions to establish due diligence policies, procedures, and controls reasonably designed to detect and report money laundering through correspondent accounts that U.S. financial institutions establish or maintain for certain foreign financial institutions. This request for comments is being made pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13, 44 U.S.C. 3506(c)(2)(A).

**DATES:** Written comments are welcome and must be received on or before December 31, 2013.

**ADDRESSES:** Written comments should be submitted to: Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183, Attention: Comments on Anti-Money Laundering Program and Due Diligence Programs for Correspondent Accounts for Foreign Financial Institutions. Comments also may be submitted by electronic mail to the following Internet address: *regcomments@fincen.gov,* again with a caption, in the body of the text, ''Attention: Comments on Anti-Money Laundering Program and Due Diligence Programs for Correspondent Accounts for Foreign Financial Institutions.''

*Inspection of comments:* Comments may be inspected, between 10 a.m. and 4 p.m., in the FinCEN reading room in Vienna, VA. Persons wishing to inspect the comments submitted must request an appointment with the Disclosure Officer by telephoning (703) 905–5034 (not a toll free call).

**FOR FURTHER INFORMATION CONTACT:** Financial Crimes Enforcement Network, Policy Division at (800) 949–2732, select option 6.

**SUPPLEMENTARY INFORMATION:**

*Abstract:* The Director of the Financial Crimes Enforcement Network (''FinCEN'') is the delegated administrator of the Bank Secrecy Act (''Act''). The Act authorizes the Director to issue regulations to require all financial institutions defined as such in the Act to maintain or file certain reports or records that have been determined to have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings, or in the conduct of intelligence or counter-intelligence activities, including analysis, to protect against international terrorism, and to implement anti-money laundering programs and compliance procedures.[1]

*Title:* Anti-Money Laundering Programs and Due Diligence Programs for Correspondent Accounts for Foreign Financial Institutions (31 CFR 1010.610).

*Office of Management and Budget Control Number:* 1506–0046.

*Abstract:* FinCEN is renewing, without change, the regulation implementing section 5318(i)(1) and (2) of the Act, found at 31 CFR 1010.610. In general, the regulation requires financial institutions, as defined in 31 U.S.C. 5312(a)(2) and 31 CFR 1010.100 to establish due diligence and, in some circumstances, enhanced due diligence policies, procedures, and controls reasonably designed to detect and report money laundering through correspondent accounts that covered U.S. financial institutions establish or maintain for certain foreign financial institutions.

*Current Action:* Renewal without change to existing regulations.

*Type of Review:* Extension of a currently approved information collection.

*Affected Public:* Businesses and other for-profit institutions.

*Burden:* Estimated Number of Respondents: 22,197.[2]

*Estimated Number of Responses:* 22,197.

*Estimated Number of Hours:* 44,394. (Two hours per response).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget (''OMB''). Records required to be retained under the BSA must be retained for five years. Generally, information collected pursuant to the BSA is confidential but may be shared as provided by law with regulatory and law enforcement authorities.

*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

[1] Pub. L. 91–508, as amended and codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959 and 31 U.S.C. 5311–5332. Language expanding the scope of the Bank Secrecy Act to intelligence or counter-intelligence activities to protect against international terrorism was added by section 358 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (''USA PATRIOT'') Act of 2001, Public Law 107–56.

[2] This number includes depository institutions (14,087), broker-dealers in securities (5,100), future commission merchants (101), introducing brokers in commodities (1,249), and open end mutual funds (1,660), each as defined under the BSA.

technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance and purchase of services to provide information.

Dated: October 21, 2013.

**Jennifer Shasky Calvery,**

*Director, Financial Crimes Enforcement Network.*

[FR Doc. 2013–25840 Filed 10–31–13; 8:45 am]

BILLING CODE 4810–2P–P

## DEPARTMENT OF VETERANS AFFAIRS

### National Academic Affiliations Council Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. App. 2, that a meeting of the National Academic Affiliations Council (NAAC) will be held on November 14–15, 2013, in the Office of Academic Affiliations Conference Room 870, 1800 G Street NW., Washington, DC. The sessions will begin at 8:00 a.m. each day and adjourn at 5:00 p.m. on November 14 and at 1:00 p.m. on November 15.

The purpose of the Council is to advise the Secretary on matters affecting partnerships between VA and its academic affiliates.

On November 14, the Council will review the status of recommendations from its previous meetings; hear from Veterans Health Administration (VHA) officials; and engage in discussions about patient aligned care teams in VA and implications for health professions education. On November 15, the Council will hear from officials of the VHA Office of Research and Development; receive reports from Liaison Committees and discuss VA advancements in quality and patient safety education. The Council will receive public comments at 12:30 p.m.

Because the meeting is being held in a government building, a photo I.D. must be presented at the Guard's Desk as a part of the clearance process. Therefore, you should allow an additional 15 minutes before the meeting begins.

A sign-in sheet for those who want to give comments will be available at the meeting. Individuals who speak are invited to submit a 1–2 page summary of their comments at the time of the meeting for inclusion in the official meeting record. Oral presentations will be limited to five minutes or less, depending on the number of participants. Interested parties may also provide written comments for review by the Council to Gloria J. Holland, Ph.D., Special Assistant for Policy and Planning, Office of Academic Affiliations (10A2D), VA, 810 Vermont Avenue NW., Washington, DC 20420 or by email to *Gloria.Holland@va.gov.* Any member of the public wishing to attend or seeking additional information should contact Dr. Holland by email or by phone at (202) 461–9490.

Dated: October 29, 2013.

**Robert C. McFetridge,**

*Director, Office of Regulation Policy and Management, Office of the General Counsel.*

[FR Doc. 2013–26077 Filed 10–31–13; 8:45 am]

BILLING CODE P

# FEDERAL REGISTER

Vol. 78 Friday,

No. 212 November 1, 2013


Part II

## Department of Education

34 CFR Parts 668, 674, 682, and 685

Student Assistance General Provisions, Federal Perkins Loan Program, Federal Family Education Loan Program, and William D. Ford Federal Direct Loan Program; Final Rule

**DEPARTMENT OF EDUCATION**

**34 CFR Parts 668, 674, 682, and 685**

**RIN 1840–AD12**

**[Docket ID ED–2013–OPE–0063]**

## Student Assistance General Provisions, Federal Perkins Loan Program, Federal Family Education Loan Program, and William D. Ford Federal Direct Loan Program

**AGENCY:** Office of Postsecondary Education, Department of Education.

**ACTION:** Final regulations.

**SUMMARY:** The Secretary amends the Student Assistance General Provisions, Federal Perkins Loan (Perkins Loan) Program, Federal Family Education Loan (FFEL) Program, and William D. Ford Federal Direct Loan (Direct Loan) Program regulations. These final regulations will: Amend the FFEL and Direct Loan program regulations to reflect changes made to the Higher Education Act of 1965, as amended (HEA), by the SAFRA Act included in the Health Care and Education Reconciliation Act of 2010; incorporate statutory changes to interest rates and other recent statutory changes in the Direct Loan Program regulations; update, strengthen, and clarify various areas of the Student Assistance General Provisions, Perkins Loan, FFEL, and Direct Loan program regulations; and provide for greater consistency in the regulations governing the title IV, HEA student loan programs. These final regulations will ensure that the title IV, HEA Federal student aid programs operate as efficiently as possible.

**DATES:** *Effective date:* These regulations are effective July 1, 2014.

*Implementation dates:* For implementation dates, see the *Implementation Date of These Regulations* section of the **SUPPLEMENTARY INFORMATION** section.

**FOR FURTHER INFORMATION CONTACT:** For further information related to loan rehabilitation reasonable and affordable payments, contact Brian Smith or Pamela Moran at (202)–502–7551 or (202)–502–7732 or by email at: *Brian.Smith@ed.gov* or *Pamela.Moran@ed.gov.* For further information related to administrative wage garnishment, contact Nathan Arnold or Pamela Moran at (202)–219–7134 or (202)–502–7732 or by email at: *Nathan.Arnold@ed.gov* or *Pamela.Moran@ed.gov.* For further information related to Federal Perkins Loan program changes, contact Gail McLarnon or Brian Smith at (202)–219–7048 or (202)–502–7551 or by email at: *Gail.McLarnon@ed.gov* or *Brian.Smith@ed.gov.* For further information related to Direct Loan program changes, contact Gail McLarnon, Jon Utz, or Pamela Moran at (202)–219–7048, (202)–377–4040, or (202)–502–7732 or by email at: *Gail.McLarnon@ed.gov, Jon.Utz@ed.gov,* or *Pamela.Moran@ed.gov.* For further information on FFEL program changes, contact Pamela Moran or Nathan Arnold at (202)–502–7732 or 202–219–7134 or by email at: *Pamela.Moran@ed.gov* or *Nathan.Arnold@ed.gov.*

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

**SUPPLEMENTARY INFORMATION:**

*Executive Summary:*

Purpose of This Regulatory Action: These final regulations address issues arising from the changes made to the HEA by the SAFRA Act, included in the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111–152). The SAFRA Act ended the origination of new loans under the FFEL Program after June 30, 2010. With this change, all new Stafford, PLUS, and Consolidation loans with a first disbursement on or after July 1, 2010, are now made under the Direct Loan Program. Because all new loans are being made under the Direct Loan Program, these final regulations amend the FFEL Program regulations in 34 CFR part 682 by removing provisions related to the making of new loans. The final regulations also reflect changes made to interest rates in the Direct Loan program by the Bipartisan Student Loan Certainty Act of 2013 (Pub. L. 113–28). In addition, the regulations amend the Direct Loan Program regulations in 34 CFR part 685 by adding detailed regulations in areas where the Direct Loan Program regulations cross-reference the FFEL Program regulations.

The regulations also strengthen and clarify provisions of the Perkins Loan, FFEL, and Direct Loan program regulations including, but not limited to, regulations governing: deferments, forbearances, loan cancellation, rehabilitation of defaulted loans, administrative wage garnishment, and satisfactory repayment arrangements. The regulations also make the rules governing the various title IV, HEA loan programs more consistent.

*Summary of the Major Provisions of This Regulatory Action:* The final regulations—

- Raise the participation rate index ceiling applicable to institutions that have a single three-year cohort default rate of over 40 percent for purposes of challenges to, and appeals from, sanctions based on that default rate. (34 CFR 668.204(c) and 668.214(a) and (d))
- Clarify the Perkins Loan, FFEL, and Direct Loan program regulations to provide that a borrower who makes six payments in the course of rehabilitating a defaulted loan, but who does not seek additional title IV aid, will not be considered to have used the one-time-only opportunity to regain title IV eligibility by making satisfactory repayment arrangements. The regulations also define the term ''satisfactory repayment arrangement'' more consistently across the title IV, HEA loan programs. (34 CFR 674.2(b), 674.9(k), 682.200(b), 685.102(b), and 685.200(d))
- Amend the closed school discharge provisions in the Perkins Loan, FFEL, and Direct Loan program regulations to specify that a borrower may qualify for a loan discharge if the borrower withdrew from school not more than 120 days before the school closed, instead of the current 90-day standard. The regulations also add examples of the types of exceptional circumstances under which the Department may extend the 120-day window. (34 CFR 674.33(g), 682.402(d), and 685.214)
- Update the FFEL and Direct Loan program enrollment status reporting requirements for institutions to reflect current processes and eliminate obsolete terms and procedures. The regulations also add comparable enrollment status reporting provisions to the Perkins Loan Program regulations. (34 CFR 674.19(f), 682.605, 682.610(c), and 685.309(b))
- Revise the terms under which a guaranty agency in the FFEL Program may authorize a lender to grant forbearance to permit a borrower or endorser to resume honoring the agreement to repay a debt after default but prior to claim payment to require either a signed written agreement to repay or an oral affirmation of the borrower's or endorser's obligation to repay the debt. The regulations provide that if a forbearance is granted based on the borrower's or endorser's oral request and affirmation of the obligation, the forbearance is limited to 120 days and cannot be granted for consecutive periods. In addition, the lender must orally review with the borrower the terms and conditions of the forbearance and send a notice to the borrower or endorser that confirms the terms of the forbearance. The regulations also define the term ''affirmation.'' Finally, the regulations also add comparable provisions to the Direct Loan Program regulations. (34 CFR 682.211(d) and 685.205(a)(8))
- Require that lenders grant forbearance to FFEL borrowers who are

performing service that qualifies them for loan repayment under the Department of Defense student loan repayment programs in addition to the program authorized by 10 U.S.C. 2171 (which is currently referenced in the regulations). A comparable forbearance provision is added to the Direct Loan Program regulations. (34 CFR 682.211(h) and 685.205(a)(9))

• Authorize a lender to grant an administrative forbearance to a FFEL borrower who is delinquent at the beginning of an authorized period of forbearance and add a corresponding provision to the Direct Loan Program regulations. (34 CFR 682.211(f) and 685.205(b)(2))

• Provide that the Secretary, in both the FFEL and Direct Loan programs, and the guaranty agency, in the FFEL Program, once the rehabilitation discussion has begun, initially considers a borrower's reasonable and affordable loan rehabilitation payment amount to equal 15 percent of the amount by which the borrower's Adjusted Gross Income (AGI) exceeds 150 percent of the poverty guideline amount applicable to the borrower's family size and State, divided by 12. If the amount determined using this calculation is less than $5, the borrower's monthly rehabilitation payment is $5. (34 CFR 682.405(b) and 685.211(f))

• Specify in the FFEL and Direct Loan program regulations that a reasonable and affordable loan rehabilitation payment amount must not be a required minimum payment (except that a payment amount calculated as described in the immediately preceding paragraph may not be less than $5), a percentage of the borrower's total loan balance, or an amount based on other criteria unrelated to the borrower's total financial circumstances. (Note that these changes to the loan rehabilitation reasonable and affordable payment amount calculation do not prohibit the Secretary, his designee, or a guaranty agency from discussing other payment arrangements with the borrower, including payment of the full defaulted loan balance or payment of the defaulted loan through consolidation, outside of the context of the loan rehabilitation program and its associated requirements.) (34 CFR 682.405(b) and 685.211(f))

• Require that the Secretary, in the FFEL and Direct Loan programs, or the guaranty agency, in the FFEL Program, provide the borrower with a written rehabilitation agreement within 15 business days of the determination of the borrower's reasonable and affordable payment amount along with a comprehensive description of the borrower's rights, the terms and conditions of the payments, the effects of loan rehabilitation, and, for a FFEL borrower, the treatment of unpaid collection costs. (34 CFR 682.405(b) and 685.211(f))

• Provide that, if the borrower objects to the initial payment amount determined by the Secretary or the guaranty agency, the Secretary or the guaranty agency will recalculate the amount of the borrower's rehabilitation payment based on the borrower's and, if applicable, the borrower's spouse's current disposable income, family size, and reasonable and necessary expenses. The information about income and expenses needed to determine the alternative reasonable and affordable payment amount will be provided by the borrower to the Secretary or the guaranty agency on a form approved by the Secretary and, if requested, with supporting documentation from the borrower or other sources. (34 CFR 682.405(b) and 685.211(f))

• Provide that, while the borrower is making payments under a rehabilitation agreement, the Secretary and the guaranty agency will limit contact with the borrower to collection activities required by law or regulation and communications that support the rehabilitation. (34 CFR 682.405(b) and 685.211(f))

• Amend the Direct Loan and FFEL program regulations to provide that, when a loan is being collected by administrative wage garnishment (AWG), the Secretary or the guaranty agency, respectively, will suspend AWG after the borrower makes five qualifying monthly payments under a loan rehabilitation agreement, unless the borrower requests that AWG continue. (34 CFR 682.405(a) and 685.211(f))

• Incorporate into the Perkins Loan Program the same eligibility criteria used in the Direct Loan and FFEL programs to define an ''eligible graduate fellowship program'' and to establish the eligibility of a Perkins Loan borrower for a graduate fellowship deferment. (34 CFR 674.34(f))

• Eliminate the debt-to-income economic hardship deferment category in the Perkins Loan Program. (34 CFR 674.34(e))

• Modify the rehabilitation provisions in the Perkins Loan Program regulations to define the term ''on-time'' as it relates to the series of payments required to successfully rehabilitate a defaulted loan. (34 CFR 674.39(a)(2))

• Allow assignment of a Perkins Loan to the Secretary without the borrower's Social Security Number if the loan was made before September 13, 1982. (34 CFR 674.50(e)(1))

• Permit a Perkins Loan borrower who is unable to complete the second half of an academic year of teaching due to a condition covered under the Family and Medical Leave Act (FMLA) to still count that year as eligible teaching service for loan cancellation purposes, if the borrower's employer considers the borrower to have fulfilled the teacher contract requirements for that academic year. (34 CFR 674.52(c)(1))

• Permit a Perkins Loan borrower who is unable to complete a full year of eligible public service due to a condition that is covered under the FMLA to count that year as a full year of public service for loan cancellation purposes if the borrower completes at least six months of consecutive eligible service. (34 CFR 674.52(c)(2))

• Specify that, if a Perkins Loan borrower who is performing service that qualifies the borrower for loan cancellation at a cancellation rate progression of 15 percent for the first and second years of qualifying service, 20 percent for the third and fourth years of qualifying service, and 30 percent for the fifth year of qualifying service, takes a job in a different field that qualifies the borrower under a different cancellation category that provides loan cancellation at the same cancellation rate progression as the prior category, the borrower's cancellation rate under the new cancellation category will continue from the last year the borrower received a cancellation under the former cancellation category, rather than starting over at the first-year cancellation rate. (34 CFR 674.52(g))

• Change the timeframe for FFEL lenders to send the required repayment disclosure for borrowers who are 60 days delinquent from five calendar days to five business days after the date the borrower becomes 60 days delinquent. (34 CFR 682.205(a)(5))

• Amend the FFEL Program regulations to provide that a lender does not have to send a repayment disclosure to a borrower who is having difficulty making payments if the borrower's difficulty has been resolved through contact resulting from an earlier disclosure or from other contact between the lender and the borrower. (34 CFR 682.205(a)(4))

• Amend the regulations governing AWG to reflect the borrower's right to request a hearing on the enforceability of the debt and to allow the borrower to object to the amount or rate of AWG withholding if such withholding would cause financial hardship to the borrower. (34 CFR 682.410(b)(9))

• Revise the regulations governing AWG to conform the requirements for borrowers whose defaulted loans are held by a guaranty agency to the rules and procedures used by the Secretary. (34 CFR 682.410(b)(9))

• Amend the regulations governing AWG to incorporate existing policy guidance related to third-party servicers or collection contractors retained by guaranty agencies. (34 CFR 682.410(b)(9))

• Amend the regulations governing AWG to more clearly describe the process, from the initial garnishment notice to withholding. (34 CFR 682.410(b)(9))

• Amend the regulations governing AWG to better reflect due process requirements and to specify the functions, delegations of authority, recordkeeping requirements, and permissible activities of guaranty agencies and third-party servicers or collection contractors. (34 CFR 682.410(b)(9))

• Clarify the limitations on the amount that may be subject to AWG if a guaranty agency is garnishing pay from a borrower who is not already subject to a withholding order or from a borrower who is already subject to one or more withholding orders. The regulations will also permit a greater amount or percentage to be withheld with the borrower's consent. (34 CFR 682.410(b)(9))

• Require that for a borrower to receive a hearing before AWG begins, the borrower's written request for a hearing must be received on or before the 30th day following the date the garnishment notice was sent, and remove a rule providing that a borrower is considered to have received a garnishment notice five days following the date of the notice. (34 CFR 682.410(b)(9))

• Provide that if a borrower's written request for a hearing is received by the guaranty agency after the 30th day following the date of the garnishment notice, the agency must provide the borrower a hearing and issue a decision within 60 days following receipt of the request. If a decision is not rendered within 60 days, the guaranty agency must suspend the order beginning on the 61st day after the hearing request was received until a hearing is provided and a decision is rendered. (34 CFR 682.410(b)(9))

• Amend the FFEL Program regulations to: specify the contents of an AWG notice; describe how an AWG hearing is administered, including provisions for the submission of additional evidence and the granting of continuances; provide for the withholding order to end by either rescission or full recovery of amounts owed by the borrower; and clarify that a borrower who wishes to object that he or she is not subject to garnishment because of involuntary separation bears the burden of raising and proving that claim. (34 CFR 682.410(b)(9))

• Eliminate provisions in the FFEL Program regulations governing loan origination and disbursement and related requirements and activities except for certain school-based requirements and related activities. (34 CFR Part 682)

• Eliminate obsolete provisions that do not reflect the current procedures in the FFEL Program. (34 CFR Part 682)

• Make necessary conforming changes in various FFEL Program provisions to update the regulations. (34 CFR Part 682)

• In the Direct Loan Program regulations, modify the exception to the minimum loan period requirement for clock-hour and certain non-standard term programs that allows a school, in certain transfer student situations, to originate a loan for a period shorter than the lesser of the academic year or program length only if the school accepts credit or clock hours from the school that the student was previously attending. The regulations remove the provision that limits this exception to situations in which the school into which the student transfers accepts credit or clock hours from the prior school. (34 CFR 685.301(a)(10))

• Add detailed regulations to 34 CFR part 685 in areas where the Direct Loan Program regulations cross-reference the FFEL Program regulations. (34 CFR Part 685)

• Remove obsolete provisions that do not reflect current procedures used in administering the Direct Loan Program. (34 CFR Part 685)

• Revise the Direct Loan Program regulations to reflect the impact of the SAFRA Act, the Bipartisan Student Loan Certainty Act of 2013, and other recent statutory changes. (34 CFR Part 685)

Chart 1 summarizes the final regulations and related benefits, costs, and transfers that are discussed in more detail in the *Regulatory Impact Analysis* section of this preamble. Significant benefits of these final regulations include a clearer process for determining a reasonable and affordable payment for loan rehabilitation that should result in more consistent treatment of borrowers, the elimination of FFEL Program regulations that are no longer needed, the expansion of the period during which a borrower who withdraws from a school prior to its closure may qualify for a closed school discharge, and additional changes to promote transparency and efficiency in the administration of the Federal student loan programs. The estimated net budget impact of the regulations is $2.8 to $3.4 million over ten years from 2013–2022, driven by the expansion of the time period for eligibility for a closed school discharge. As shown in the Accounting Statement within the Regulatory Impact Analysis of these final regulations, the annualized estimated transfer from the Federal government to borrowers associated with the statutory changes to Direct Loan interest rates is $1.2 billion at a 7 percent discount rate and $467 million at a 3 percent discount rate. For some future cohorts, depending on the cost of funds of the Federal government, the transfer may be reversed and the students would have higher interest rates than if the PB2014 baseline assumed rates of 6.8 percent for Direct Subsidized Loans and Direct Unsubsidized Loans and 7.9 percent for Direct PLUS Loans had continued in effect.

CHART 1—SUMMARY OF THE FINAL REGULATIONS

| Issue and key features | Benefits | Cost/transfers |
|---|---|---|
| Three-Year Cohort Default Rate Participation Rate Index Challenges and Appeals (34 CFR 668.204 and 668.214). | More schools with low Title IV participation but high default rates (above 40%) will be able to appeal their loss of Title IV eligibility. This is important as the change from a 2-year to a 3-year cohort default rate is predicted to leave many schools ineligible to appeal their sanctions under the previous regulations. | No significant costs projected. |
| Raises the Participation Rate Index ceiling for purposes of challenges to and appeals from sanctions based on one three-year cohort default rate of over 40 percent from 0.06015 to 0.0832. | | |

CHART 1—SUMMARY OF THE FINAL REGULATIONS—Continued

| Issue and key features | Benefits | Cost/transfers |
|---|---|---|
| Perkins Loan, FFEL, and Direct Loan Programs: Satisfactory Repayment Arrangements (34 CFR 674.2(b), 674.9(k), 682.200(b), 685.102(b), and 685.200). Makes the definitions of ''satisfactory repayment arrangement'' more consistent across the three title IV student loan programs. | Creates a consistent standard across the three loan programs and adds clarity to the regulations regarding defaulted loan rehabilitation. | No significant costs projected. |
| Closed School Discharge (34 CFR 674.33(g), 682.402(d), and 685.214). Extends the current 90-day window for students who leave before a school closes to 120 days and adds examples of the types of exceptional circumstances under which the Department may extend the 120-day window. | Expanding the window an extra 30 days will provide discharges to students who failed to meet the 90-day criteria but withdrew from a program as it was preparing to close. Citing clear examples of exceptional circumstances adds clarity to the loan regulations and gives borrowers a basis on which to make educated decisions. | We estimate these changes to have a cost of approximately $3.1 million over 10 years as the pool of borrowers eligible for discharge will increase. |
| School Enrollment Status Reporting Requirements (34 CFR 674.19, 682.605, 682.610, and 685.309). Revises the regulations to reflect the current processes by which schools receive and report student enrollment status information and provides the Secretary with greater flexibility to modify enrollment reporting procedures in the future. | Improves the Department's information collection process and supports a more efficient loan servicing process. | No significant costs projected. |
| Forbearance for Borrowers Who are 270 or More Days Delinquent Prior to Guaranty Agency Default Claim Payment or Transfer by the Department to Collection Status (34 CFR 682.211(d) and 685.205). Requires lenders to send a notice within 30 days of a forbearance agreement to the borrower if the agreement is based on an oral request or agreement. | Creates a consistent standard across the loan programs and ensures that borrowers are fully informed of the details of their forbearance agreement. Borrowers will have to affirm their commitment to repay and acknowledge their debt, which may improve the probability of full repayment. | No significant costs projected. |
| Forbearance Provisions for Borrowers Receiving Department of Defense Student Loan Repayment Benefits (34 CFR 682.211(h) and 685.205). Requires that lenders grant forbearance to borrowers who are performing service that qualifies them for loan repayment under the Department of Defense student loan repayment programs authorized by 10 U.S.C. 2171, 2173, or 2174, or under any other student loan repayment program administered by the Department of Defense. | Creates consistency across loan programs .... | No significant costs projected. |
| Borrowers Who Are Delinquent When an Authorized Forbearance Is Granted (34 CFR 682.211(f) and 685.205). Authorizes lenders to grant an administrative forbearance to a borrower who is delinquent at the beginning of an authorized period of forbearance. | Borrowers who opt to use forbearance will not have to worry about having a delinquent repayment status upon exiting forbearance. | No significant costs projected. |
| Loan Rehabilitation Agreement: Reasonable and Affordable Payment Standard (34 CFR 682.405(b) and 685.211(f)). Establishes standards for determining a ''reasonable and affordable'' loan repayment for rehabilitation purposes. | Reduces the burden on defaulted borrowers who are attempting to rehabilitate their loans and adds transparency to the process. This will possibly increase the percentage of defaulted borrowers that complete the rehabilitation process and fully repay their loans. | No significant costs projected. |
| Loan Rehabilitation Agreement: Treatment of Borrowers Subject to Administrative Wage Garnishment (34 CFR 682.405(a) and 685.211(f)). Suspends AWG after a borrower has made five qualifying payments under a loan rehabilitation agreement. | Provides financial relief to borrowers whose loans are being collected through AWG but who are taking positive steps to repay their loans. | No significant costs projected. |

CHART 1—SUMMARY OF THE FINAL REGULATIONS—Continued

| Issue and key features | Benefits | Cost/transfers |
|---|---|---|
| Federal Perkins Loan Graduate Fellowship Deferment Eligibility (34 CFR 674.34(b)(1) and (f)). Requires schools that participate in the Perkins Loan Program to use the same eligibility criteria that are used in the FFEL Program (under § 682.210(d)) to define an eligible graduate fellowship program and to establish the eligibility of a Perkins Loan borrower for a graduate fellowship deferment. | Creates consistency across loan programs .... | No significant costs projected. |
| Federal Perkins Loan Economic Hardship Deferment Debt-to-Income Ratio Provision (34 CFR 674.34(e)(4)). Eliminates an inconsistency between the economic hardship deferment eligibility criteria in the Perkins Loan program and the eligibility criteria in the Direct Loan and FFEL programs. | Creates consistency across loan programs .... | No significant costs projected. |
| Federal Perkins Loan Standard for On-time Loan Rehabilitation Payment (34 CFR 674.39(a)(2)). Identifies what is considered an ''on-time'' loan payment for rehabilitation purposes within the Perkins Loan program. | Creates consistency across loan programs .... | No significant costs projected. |
| Social Security Number Requirement (SSN) for Assignment of Defaulted Federal Perkins Loans to the United States (34 CFR 674.50(e)(1)). Allows assignment of a Perkins Loan without the borrower's SSN if the loan was made before September 13, 1982. | Makes the administration of Perkins Loans less burdensome by bringing the regulations more in line with past practices. | No significant costs projected. |
| Federal Perkins Loan Break in Cancellation Service Due to a Condition Covered under the Family and Medical Leave Act (34 CFR 674.52(c)(1)). Allows a Perkins Loan borrower who is unable to complete a second half of an academic year of teaching or a full year of public service due to a condition covered under the Family Medical and Leave Act to still count that year as a full year of service if the borrower's employer considers the borrower to have fulfilled the requirements for that year. | Adds consistency across the loan programs. It also provides leniency for eligible borrowers who are unable to complete their service requirements because of injury or illness. | No significant costs projected. |
| Federal Perkins Loan Cancellation Rate Progression (34 CFR 674.52(g), 674.53(d), 674.56(h), 674.57(c)(2), and 674.59(c)(2)). Allows borrowers to continue their progression toward full loan cancellation when they change jobs to a position with the same cancellation eligibility requirements. | Borrowers who are progressing toward loan cancellation based on employment in a particular field who switch jobs will no longer lose credit for their time served as along as the new job has the same loan cancellation eligibility. | No significant costs projected. |
| FFEL Lender Repayment Disclosures for Borrowers Who Are 60 Days Delinquent (34 CFR 682.205(a)(5)). Changes the requirement that FFEL Lenders have to provide a repayment disclosure to a borrower from five calendar days after the date the borrower becomes 60 days delinquent to five business days after that date. | Reduces the burden on FFEL lenders by accounting for holidays and weekends. | No significant costs projected. |
| FFEL Lender Repayment Disclosures to Borrowers Who Are Having Difficulty Making Payments (34 CFR 682.205(a)(4)). Removes requirement that a FFEL lender provide a borrower with a disclosure upon notification from the borrower that he or she is having trouble making payments, if the borrower's difficulty has been previously resolved. | Reduces the paperwork burden on FFEL lenders. | No significant costs projected. |

CHART 1—SUMMARY OF THE FINAL REGULATIONS—Continued

| Issue and key features | Benefits | Cost/transfers |
|---|---|---|
| Administrative Wage Garnishment of the Disposable Pay of Defaulted FFEL Program Borrowers (34 CFR 682.410(b)). Borrower Hearing Opportunities on the Enforceability of the Debt and a Borrower's Claim of Financial Hardship (34 CFR 682.410(b)(9)(i)). Changes the regulations regarding Administrative Wage Garnishments (AWG) for FFEL borrowers to align with the rules governing AWG for Department-held loans. | Ensures that borrowers who object to the proposed AWG have an appropriate opportunity to challenge the existence or amount of the debt or to demonstrate that the withholding would cause financial hardship. | No significant costs projected. |
| Use of Third-Party Contractors in AWG Hearings (34 CFR 682.410(b)(9)). Adds language to clarify that an AWG hearing official may not be under the supervision or control of the guaranty agency or of a third-party servicer or contractor employed by the agency. | Ensures borrowers receive impartial hearings | No significant costs projected. |
| Amount or Rate of Wage Withholding (34 CFR 682.410(b)(9)). Adds language to clarify the maximum amount that may be withheld during AWG. | Provides clarity to loan program ..... | No significant costs projected. |
| Borrower Hearing Requests (34 CFR 682.410(b)(9)). Changes the notification timelines regarding AWG hearing requests. | Provides borrowers with more time to request hearings. | No significant costs projected. |
| Modification of the FFEL Program Regulations (34 CFR part 682). Modifies the FFEL Program regulations to remove provisions that are obsolete because of the implementation of the SAFRA Act. | Provides clarity to lenders, guaranty agencies, financial aid administrators and borrowers. | No significant costs projected. |
| Minimum Loan Period for Transfer Students in Non-Term and Certain Non-Standard Term Programs (34 CFR 685.301). Allows students who transfer into non-term and certain non-standard term programs during the middle of an academic year, to be eligible for a Direct Loan to cover the remainder of the academic year (within annual loan limits) regardless of whether the new academic program accepts credits from the prior program. | Borrowers will no longer have to worry about the ramifications of transferring to a school that does not accept credit or clock hours from the previous school. | No significant costs projected. |
| Modification of the Direct Loan Program Regulations (34 CFR part 685). Modifies the Direct Loan Program regulations to remove provisions that are obsolete because of the implementation of the SAFRA Act and to add necessary language to replace cross-references and reflect program requirements. | Adding consistency to regulations and removing inapplicable regulations dealing with Direct Loans will provide clarity to program participants. | No significant costs projected. |

On July 29, 2013 the Secretary published a notice of proposed rulemaking (NPRM) for these regulations in the **Federal Register** (78 FR 45618). The final regulations contain several changes from the NPRM. We fully explain the changes in the *Analysis of Comments and Changes* section of the preamble that follows.

## Implementation Date of These Regulations

Section 482(c) of the HEA requires that regulations affecting programs under title IV of the HEA be published in final form by November 1, prior to the start of the award year (July 1) to which they apply. However, that section also permits the Secretary to designate any regulation as one that an entity subject to the regulations may choose to implement earlier and the conditions for early implementation.

Consistent with the Department's objective to improve servicing processes for title IV borrowers, the Secretary is exercising his authority under section 482(c) to designate the following new and amended regulations included in this document for early implementation beginning on November 1, 2013, at the discretion of each loan holder, guaranty agency, or institution, as applicable:

(1) Section 674.2(b).
(2) Section 674.9(k).
(3) Section 674.39(a)(2).
(4) Section 674.52(c) and (g).
(5) Section 682.205(a)(4).
(6) Section 682.205(a)(5).
(7) Section 682.211(d).
(8) Section 682.211(f).
(9) Section 682.211(h).
(10) Section 682.410(b)(9).
(11) Section 685.301(a)(10).

The Secretary also intends to implement early provisions in 34 CFR 685.205 comparable to the provisions in 34 CFR 682.205(a)(4) and (5).

## Analysis of Comments and Changes

In response to the Secretary's invitation in the NPRM, 25 parties submitted comments on the proposed regulations. An analysis of the comments and of the changes in the regulations since publication of the NPRM follows.

We group major issues according to subject, with appropriate sections of the regulations referenced in parentheses.

We discuss other substantive issues under the sections of the proposed regulations to which they pertain. Generally, we do not address technical or other minor changes.

We received recommendations from some commenters to make numerous technical changes, including changes that would provide for greater consistency in the regulations of the Perkins Loan, FFEL, and Direct Loan programs. We will consider these changes for inclusion in future technical corrections.

Finally, we note that although the amendatory language in the NPRM included a series of individual revisions to certain parts of 34 CFR 685.220 and 34 CFR 685.301 as part of the overall modification of the Direct Loan Program regulations, these final regulations restate §§ 685.220 and 685.301 in their entirety for greater clarity. However, we have made no changes to these sections other than those that were proposed in the NPRM.

**Student Assistance General Provisions Issue**

*Three-Year Cohort Default Rate Participation Rate Index Challenges and Appeals (34 CFR 668.204 and 668.214)*

*Comments:* Several commenters agreed with the proposed change to raise the participation rate index (PRI) ceiling applicable to institutions that have a single three-year cohort default rate (CDR) of over 40 percent. One commenter stated that continuity and consistency among and between various portions of the regulations, as evidenced by this change, were important and also commended the Department for clarifying that all types of institutions were eligible to challenge and appeal their respective rates using the criteria.

Another commenter requested that the Department change the PRI appeal requirements to allow a PRI appeal to be made annually for each published rate. The commenter believed this would dissuade community colleges from discontinuing participation in the Direct Loan program for the purpose of preventing the loss of eligibility for the Pell Grant Program based on high CDRs.

*Discussion:* We appreciate the commenters' support of this change. However, we do not agree with the proposal that we allow institutions to file a PRI appeal annually, whether or not the institution would be subject to a sanction. This proposal would impose an unmanageable workload on the Department and is not necessary to protect institutions. Evaluating a PRI appeal is a time-consuming, labor-intensive process. The recommended change would require the Department to consider a significantly higher number of PRI appeals than under the current process, which would delay decisions for institutions that are potentially subject to sanctions. Moreover, the Department believes institutions have ample opportunity to demonstrate in a timely manner that they qualify for relief from sanctions based on their PRI. Current regulations permit institutions to bring a PRI appeal not only when an official rate leading to sanctions is published, but also seven months earlier, at the draft rate stage, when the loss of eligibility is not imminent. At the draft rate stage, just as at the official rate stage, the institution may challenge the draft CDR and file a PRI challenge with respect to any or all of the official rates that would support a loss of eligibility.

A successful PRI challenge to an official rate at the draft rate stage has the same impact as a successful challenge later in the process. Thus, institutions already have sufficient opportunity to file a meaningful appeal.

*Changes:* None.

**Perkins Loan, FFEL, and Direct Loan Program Issues**

*Satisfactory Repayment Arrangements (34 CFR 674.2(b), 674.9(k), 682.200(b), 685.102(b) and 685.200(d))*

*Comments:* Two commenters expressed support for the effort to make the ''satisfactory repayment arrangements'' definitions more consistent across the Perkins Loan, FFEL, and Direct Loan programs. These commenters believed that a consistent definition of an ''on-time'' payment as a payment made within 20 days of the due date would be helpful to borrowers. However, these commenters also expressed a concern with the requirement that the payments be ''full'' payments. These commenters believe that the term ''full'' is too vague and open to interpretation. These commenters recommended replacing the term ''full'' with the term ''approved'' in the ''satisfactory repayment arrangement'' definitions. These commenters also suggested aligning the number of payments needed to regain title IV eligibility under satisfactory repayment arrangements with the number of payments needed to rehabilitate a loan. These commenters felt that allowing a borrower to obtain new title IV loans after six qualifying payments made under satisfactory repayment arrangements is not in the borrower's best interests.

*Discussion:* We thank the commenters for their support of the proposed changes to the Perkins Loan, FFEL, and Direct Loan program definitions of ''satisfactory repayment arrangements.'' However, we do not agree with their recommendation to require that payments made under satisfactory repayment arrangements be ''approved'' payments rather than ''full'' payments. We believe that the term ''full'' is self-explanatory when referring to a payment made on a loan. In addition, replacing the long-standing term ''full'' with the term ''approved'' might be interpreted as a change in the requirement, rather than just a change in terminology.

The number of payments required under satisfactory repayment arrangements and the number of payments required under a rehabilitation agreement are established by statute. Section 428F(a)(1)(A) of the HEA requires nine payments under a rehabilitation agreement. Section 428F(b) requires six payments to meet the requirements for satisfactory repayment arrangements. The Department does not have the authority to change these requirements.

*Changes:* None.

*Closed School Discharge (34 CFR 674.33(g), 682.402(d), and 685.214)*

*Comments:* One commenter commended the Department for proposing changes to the closed school discharge provisions. The commenter noted that extending the 90-day window for students who cease enrollment before a school closes to 120 days will help students avoid hardships, such as repaying loans received for programs they are unable to complete through no fault of their own. This same commenter also expressed support and thanked the Department for adding examples of exceptional circumstances under which the Department may extend the 120-day window for affected borrowers. However, this commenter also recommended that the Department provide the benefit of a closed school discharge to borrowers enrolled in a program that is discontinued at a school that continues to operate, especially in the case of a school that offers many of its programs online or through distance education.

Lastly, another commenter commended the Department for proposing changes to the closed school discharge provisions and supported the Department's position to limit the discharge to closed schools only and not to discontinued programs.

*Discussion:* The Department appreciates the commenters' support for its proposed changes to the closed school discharge provisions. In response

to the request that the Department provide the benefit of a closed school discharge to borrowers enrolled in a discontinued program at a school that continues to operate, we note that sections 437(c)(1) and 464(g) of the HEA require that the school must close in order for a borrower to be eligible for the discharge. The statute does not provide for a loan discharge when only a program, either traditional or distance, is discontinued. We also note that the Department does not consider a distance education program to be a separate location of a school for title IV eligibility purposes. A location is a physical site where a student can receive instruction in 50 percent or more of an eligible program. If a school offers online programs, the online programs are considered to be associated with the main campus of the school. Thus, a borrower enrolled in an online course would be eligible for a closed school discharge if the main campus of the school closes.

*Changes:* None.

**FFEL and Direct Loan Program Issues**

*Forbearance for Borrowers Who Are 270 or More Days Delinquent Prior to Guaranty Agency Default Claim Payment or Transfer by the Department to Collections Status (34 CFR 682.211(d) and 685.205(a)(8))*

*Comments:* Several commenters supported the proposed requirement that a lender that grants a forbearance based on an oral request and affirmation by a borrower who is 270 or more days delinquent must review with the borrower the terms and conditions and consequences of the forbearance and must provide the borrower with written confirmation of the terms of the forbearance agreement within 30 days of the agreement. However, the commenters expressed concern about limiting the forbearance for such borrowers to one 120-day period. The commenters believed that the current economy and pending healthcare reform could leave many borrowers underemployed or with other temporary situations that cannot be resolved within 120 days. The commenters recommended that the forbearance period be extended from 120 to 180 days.

One commenter urged the Department to revise these proposed regulations to prohibit a borrower from receiving additional forbearances unless the borrower can demonstrate a reasonable prospect of increased income in the foreseeable future. The commenter also recommended that the written notice sent to the borrower to confirm the terms of the 120-day forbearance agreement include information on other repayment options and on how the borrower can exit forbearance.

*Discussion:* The Department disagrees with the commenters' recommendation that the 120-day, non-serial forbearance that may be granted based on a defaulted borrower's oral request and affirmation be expanded to 180 days. We believe that the 120-day forbearance period provides sufficient time for the borrower to avoid the negative consequences of default by submitting a written forbearance request and affirmation that would result in a forbearance period of up to 12 months, documenting deferment eligibility, or changing to a different repayment plan, so the borrower can successfully manage and repay the loan.

The Department recognizes that schools are required to conduct entrance and exit counseling with their borrowers, and through that process, to educate their borrowers on the terms and conditions of the loans and the program benefits available to assist them in repaying their loans. We are aware that many schools are working to enhance and expand loan-based counseling with their students over the period of their enrollment at the school and support those efforts. The Department has also seen evidence, however, both during and following the negotiated rulemaking sessions, that some institutions are aggressively pursuing their former students to compel them to request forbearance on their loans, primarily during the cohort period when the institution is accountable for student loan defaults. As stated in the preamble to the NPRM, the limits on the 120-day forbearance based on an oral request for a borrower who is 270 days or more delinquent are intended to address potential abuse in this area and to prevent the use of serial forbearances based on oral requests.

We disagree with the commenter who suggested that a borrower receiving the 120-day, non-serial forbearance should be denied access to subsequent discretionary or mandatory forbearances unless the borrower can demonstrate increased income in the foreseeable future. Section 428(c)(3) of the HEA, which contains the eligibility criteria for discretionary and mandatory forbearances in the Direct Loan and FFEL programs, does not support the use of the borrower's demonstrated future earnings as a basis for granting forbearance. However, we agree with the commenter that the other repayment options orally reviewed with the borrower at the time the forbearance is granted should be included in the confirming notice sent to the borrower.

*Changes:* Sections 682.211(d)(2)(iii) and 685.205(a)(8)(ii)(B) of the FFEL and Direct Loan program regulations, respectively, have been revised to require that information on all other repayment options be included in the notice sent to the borrower to confirm the terms of the forbearance.

*Forbearance Provisions for Borrowers Receiving Department of Defense Student Loan Repayment Benefits (34 CFR 682.211(h) and 685.205(a)(9))*

*Comments:* Commenters supported the proposed change to ensure that lenders grant appropriate forbearances to borrowers who are performing eligible service to qualify for student loan repayment under authorized Department of Defense loan repayment programs.

*Discussion:* We appreciate the commenters' support for this regulatory change.

*Changes:* None.

*Borrowers Who Are Delinquent When an Authorized Forbearance Is Granted (34 CFR 682.211(f) and 682.205(b)(2))*

*Comments:* Several commenters supported the proposed change to the regulations to authorize FFEL lenders to grant administrative forbearance to a borrower who is delinquent at the beginning of an authorized period of forbearance and the corresponding change to the Direct Loan regulations. The commenters expressed concern, however, that this authority would provide the Department's loan servicers an opportunity to use forbearances to increase the percentage of Federal loans that they service. The commenters urged the Department to ensure that all delinquent borrowers are treated similarly by requiring the servicer to discuss the terms and conditions and consequences of the forbearance with the borrower and subsequently provide written confirmation of the terms and other pertinent information, as was proposed in the NPRM for borrowers who are 270 or more days delinquent.

*Discussion:* The additional authority for FFEL lenders and the Department in the Direct Loan Program to grant administrative forbearance to eliminate a period of delinquency that pre-dates the start of an authorized forbearance period is used only in conjunction with an authorized period of forbearance for which the borrower qualifies. The use of forbearance in this circumstance prevents a borrower from reentering repayment up to 12 months later in a delinquent status, at the end of the authorized forbearance period.

Borrowers granted authorized forbearances are provided with pertinent disclosures that also apply to the period of administrative forbearance. Therefore, we do not agree with the commenters' suggestion that we specifically require additional disclosures.

*Changes:* None.

*Loan Rehabilitation Agreement: Reasonable and Affordable Payment Standard (34 CFR 682.405(b) and 685.211(f))*

*Comments:* Several commenters expressed support for the proposed regulations in §§ 682.405(b)(1) and 685.211(f)(1) that would require a guaranty agency and the Department to determine a FFEL or Direct Loan program borrower's rehabilitation payment amount based on the borrower's, and if applicable the borrower's spouse's, current disposable income, family size, and reasonable and necessary expenses.

As discussed below, several commenters raised a number of objections to the process that a guaranty agency and the Department would follow to determine a borrower's reasonable and affordable rehabilitation payment.

Several commenters were critical of the proposed regulations. These commenters believed that the requirements in the proposed regulations would delay and hinder the rehabilitation process. These commenters expressed concern that requesting financial documents and information from borrowers would burden the process, create confusion, and invade the privacy of the borrower. They stated that often borrowers default because they do not complete paperwork and meet deadlines. In the view of these commenters, the proposed regulatory requirements would impede the ability of collection agencies to get borrowers to participate in the loan rehabilitation program. One of these commenters recommended that the proposed regulations not be implemented at all due to the amount of paperwork a borrower would be required to complete to enter into a loan rehabilitation agreement.

Several commenters stated that the determination of a ''reasonable and affordable'' payment amount can often be accomplished in a telephone conversation in which a borrower's overall financial circumstances are evaluated to establish an acceptable payment amount. In these discussions, the commenters asserted, the borrower's own assessment of his or her total financial circumstances and ability to pay the requested amount serves as the basis for the guaranty agency or Department's determination that the payment amount is reasonable and affordable. These commenters believed that this would be a fair conclusion, since the borrower understands his or her financial resources and constraints better than others. According to the commenters, guaranty agencies find that nearly half of borrowers seeking rehabilitation are able to obtain what the guaranty agencies term reasonable and affordable payment amounts in this manner.

Another commenter, however, argued that, since debt collectors are paid based on a share of revenue collected, Federal student loan servicers have little incentive to offer reasonable and affordable rehabilitation payments that are based on an objective analysis of the borrower's financial circumstances. Instead, the incentive is to push borrowers to make as large a payment as possible, regardless of whether the payment is either reasonable or affordable. Another commenter reiterated this point, stating that private collection agencies—including the Department's own collection contractors—use a balance-sensitive repayment approach for making an initial determination of a borrower's rehabilitation payment amount. Under a balance-sensitive repayment approach, the payment amount offered to the borrower is based on the outstanding balance of the loan, and does not take into consideration the borrower's financial circumstances. In such cases, the commenter asserted, the borrower may feel pressured to agree to a loan rehabilitation payment amount that is unaffordable, and the rehabilitation will ultimately be unsuccessful.

Several commenters raised concerns with regard to use of the Department's proposed Financial Disclosure for Reasonable and Affordable Rehabilitation Payments form for collecting financial and other information from borrowers seeking to rehabilitate their loans. These concerns can be summarized as follows:

- The commenters asserted that use of the form in all cases would be inconsistent with the Department's goal of providing an improved and more consistent loan rehabilitation process for FFEL and Direct Loan borrowers. The commenters believed that the Department can achieve the same goal by emphasizing to its own staff and collection agencies, as well as to guaranty agencies and their collection agencies, the importance of complying with all applicable statutory and regulatory requirements. In the view of these commenters, requiring the use of the form only in the absence of an agreement between the borrower and the loan holder on a reasonable and affordable repayment amount would provide targeted help to such borrowers. The commenters stated that collecting personal and financial information from every borrower who requests loan rehabilitation would be unreasonable and unwarranted.
- The commenters believed that the use of the form would work against the Department's goal of increasing borrower participation in the loan rehabilitation program. The commenters stated that many borrowers would not complete the form, and that the proposed regulations would actually decrease the percentage of borrowers attempting to rehabilitate their loans.
- The commenters expressed concerns that use of the form would infringe on the privacy of the borrowers, requiring them to provide highly sensitive information either to a guaranty agency or to the Department, even if the borrower has already agreed to a repayment amount.
- The commenters believed that the requirements in the proposed regulations would impose an additional impediment to borrowers seeking to regain Title IV eligibility while rehabilitating defaulted loans.
- The commenters were also concerned that use of the form would impose an enormous administrative burden on all parties.

Several commenters stated that they believed that the regulatory requirements that were negotiated and agreed to during the negotiated rulemaking session should only be triggered if the borrower objected to the repayment amount offered by the collection agency or the guaranty agency. They stated that this type of borrower feedback has always been a trigger event for collecting additional financial information to determine reasonable and affordable payments, and asserted that no change to this trigger event was discussed during negotiations. These commenters claimed that the process for determining reasonable and affordable rehabilitation payment amounts provided for in the consensus regulatory language and described in the NPRM was not consistent with their understanding of what was agreed to during the negotiated rulemaking sessions.

Another commenter had a different understanding of the proposed rules that had been agreed to by the negotiated rulemaking committee. This commenter stated that the consensus regulatory language would require loan

servicers, loan holders, and debt collectors to use the form collecting financial disclosure information from the borrower for every borrower who seeks to rehabilitate a loan. This commenter pointed out that the proposed regulatory language agreed to by the negotiating committee states that a borrower's reasonable and affordable repayment amount must be based ''solely'' on information provided on the form and, if requested, supporting documentation. The proposed regulations describe a process in which a borrower who objects to the payment amount determined through use of the form is then offered a rehabilitation payment amount that is calculated using the same formula used for determining payments under IBR. This commenter stated that during the rulemaking negotiations, the commenter supported the consensus regulatory language because the proposed regulations would provide a standardized process to ensure that rehabilitation amounts are determined solely by looking at a borrower's financial circumstances. This commenter recommended that the Department issue guidance to clarify that an offer of a rehabilitation payment amount must be based solely on information provided by the borrower. This commenter also noted that some negotiators had proposed during the negotiations that the initial rehabilitation payment amount offered should be determined using the IBR formula. This commenter recommended that, if the borrower is unable to complete the form, the loan holder should continue the rehabilitation process by determining the payment amount using this approach.

Another commenter expressed concerns about the complexity of the proposed form, and suggested that if the payment calculated using the IBR formula was the initial offer to a borrower, the form would only be needed for borrowers who object to that initial payment amount. The commenter stated that a payment amount calculated using this approach would be acceptable to most borrowers, and would therefore significantly reduce the number of borrowers who would need to use the financial disclosure form.

*Discussion:* In response to the numerous comments we received expressing concerns about the amount of personal financial information a borrower requesting loan rehabilitation would have to provide under the proposed regulations, we have modified the final regulations to provide that as the first step in the loan rehabilitation process, the lender, loan servicer or the Department will calculate a loan rehabilitation payment amount by using the IBR payment formula that provides for a monthly payment equal to 15 percent of the amount by which the borrower's AGI exceeds 150 percent of the poverty guideline amount applicable to the borrower's State and family size, divided by 12. Throughout the remainder of this preamble, we refer to this as the ''15 percent formula.'' To ensure consistent treatment of all defaulted borrowers, the initial loan rehabilitation payment amount will be calculated in all cases using the 15 percent formula, as described earlier. For new borrowers on or after July 1, 2014, who are repaying non-defaulted Direct Loans under the IBR plan, the IBR plan payment amount is equal to 10 percent of the amount by which the borrower's AGI exceeds 150 percent of the poverty guideline amount applicable to the borrower's State and family size. However, this 10 percent IBR formula will not be used in the initial determination of a reasonable and affordable loan rehabilitation payment amount on a defaulted loan.

It is important to note that loan rehabilitation payments calculated by using the 15 percent formula are not payments that are made under the IBR plan. This means, for example, that such payments do not count toward IBR plan loan forgiveness, nor do they count as qualifying payments for purposes of public service loan forgiveness in the Direct Loan Program.

Under these final regulations, a loan rehabilitation payment amount based on the information collected on the Financial Disclosure for Reasonable and Affordable Payments form will only be calculated if the borrower objects to the payment amount based on the 15 percent formula. If the borrower does object to the payment amount calculated based on this formula and requests that a rehabilitation payment amount be calculated based on information on the form, the borrower can choose which payment amount to accept. We expect that the payment amount based on the 15 percent formula will in most cases be less than the payment amount under a standard 10-year repayment plan, and will be acceptable to most borrowers. Therefore, this approach should significantly reduce the number of borrowers who will be required to complete the financial disclosure form. We believe that this change will address concerns raised by consumer advocates, student groups, guaranty agencies, and collection agencies alike that the financial disclosure information required under the proposed regulations would be overly burdensome for borrowers requesting loan rehabilitation.

Specifically, with regard to commenters' concerns that the proposed regulations would create confusion, add burden to the process, or invade the privacy of the borrower, we believe the revised process in the final regulations is clear and understandable. The revised process significantly reduces burden by limiting the use of the form, and appropriately balances the borrower's privacy with the need to verify information. The final regulations assist with privacy concerns by limiting the information borrowers are required to provide—only requiring the use of the Financial Disclosure for Reasonable and Affordable Payments for those borrowers who object to the monthly payment amount determined based on the 15 percent formula.

Commenters were concerned that the paperwork burden associated with the use of the financial disclosure form would impede the ability of collection agencies to get borrowers to participate in the loan rehabilitation program. Our revisions to the proposed regulations significantly reduce the paperwork burden on borrowers because, again, they will only need to provide the Financial Disclosure for Reasonable and Affordable Payments form if they object to the payment amount based on the 15 percent formula.

Some commenters stated that reliance on the oral statements of the borrower should be sufficient to determine the ''reasonable and affordable'' payment amount, and that there should be no need for further documentation or verification. Other commenters had the opposite opinion, sharing concern that loan servicers may push borrowers to agree to payments that are not reasonable and affordable. We believe our approach balances applicable equities, burden, verification that payment is reasonable and affordable, and privacy concerns.

With regard to the comments about the agreements reached at the negotiated rulemaking sessions, we believe the NPRM was consistent with the consensus reached through negotiated rulemaking. Commenters did seem to have different understandings of what the NPRM language meant; we believe our revised regulations provide a clear, understandable process.

With regard to comments about a ''trigger event,'' we believe that it would defeat the purpose of the proposed regulations if the regulations only applied in cases when a borrower and loan holder are unable to agree to a loan rehabilitation payment amount. The intent of the regulations is to

standardize the process for determining rehabilitation payment amounts. The commenter states that loan holders and borrowers are able to agree to loan rehabilitation payment amounts 50 percent of the time. If this figure is accurate, and the trigger for the rehabilitation payment amount regulations was the failure of the borrower and loan holder to come to an agreement, the loan rehabilitation regulations would only apply to half of the borrowers who apply for rehabilitation.

We note that nothing in these regulations precludes a defaulted borrower from resolving the default by repaying the loan in full. A qualified defaulted borrower may also, under certain conditions, repay a defaulted loan through a new Direct Consolidation Loan. Some defaulted borrowers may also qualify for a loan discharge. The regulations do not prohibit the Secretary, his designee, or a guaranty agency from discussing these other payment arrangements with the borrower outside of the context of the loan rehabilitation program and its associated requirements.

*Changes:* We have revised §§ 682.405(b)(1)(iii) and 685.211(f)(1)(i) to specify that the initial loan rehabilitation payment amount determined by a guaranty agency or the Secretary equals 15 percent of the amount by which the borrower's Adjusted Gross Income (AGI) exceeds 150 percent of the poverty guideline amount applicable to the borrower's family size and State, divided by 12, except that if this amount is less than $5, the borrower's monthly rehabilitation payment is $5.

We have revised §§ 682.405(b)(1)(vii) and 685.211(f)(3) to specify that if the borrower objects to the initial payment amount, a second loan rehabilitation payment amount is determined by recalculating the payment amount based solely on the information provided on the *Financial Disclosure for Reasonable and Affordable Payments* form and, if requested, supporting documentation from the borrower and other sources.

*Comments:* In the NPRM, the Department identified several categories of expenses in proposed §§ 682.405(b)(1)(i)(C) and 685.211(f)(1)(i)(C) that the guaranty agencies and the Department would use to evaluate a borrower's monthly ''reasonable and necessary expenses.'' Although the proposed regulations did not stipulate standardized amounts that a borrower might claim in each of these categories, the Secretary invited comment on whether the regulations should specify standardized amounts, such as those used in the IRS National Standards. Commenters representing both guaranty agencies and consumer groups opposed this idea.

Several commenters noted that the topic of standardization was discussed at length during the negotiations, and noted that an overly rigid framework for making these determinations would likely eliminate the rehabilitation opportunity for those whose financial circumstances do not exactly fit within the framework. They pointed out that, as the Secretary noted in the preamble to the NPRM, preserving appropriate flexibility in the methodology is important to enable guaranty agencies and the Department to ensure that a reasonable and affordable payment is available to all borrowers. These commenters contended that allowing flexibility in this regard strengthens the effectiveness of the regulations in determining reasonable and affordable payment amounts. These commenters stated that the negotiated rulemaking committee decided not to propose a standardized methodology. These commenters reiterated that position in response to the Secretary's invitation to comment.

In a separate comment, another commenter recommended that the Department not use standardized national standards for expense amounts. This commenter stated that, to the extent that the consensus regulatory language reflected an agreement that a combination of standardized and tailored payment options would best meet the needs of borrowers, standardizing the more tailored approach would be a step in the wrong direction.

*Discussion:* We thank the commenters for responding to the invitation to comment on this proposal in the NPRM. We agree with their view that the final regulations should preserve the flexibility to determine reasonable and affordable rehabilitation payment amounts based on the borrower's financial information, which the proposed regulations provided.

*Changes:* None.

*Comments:* One commenter expressed concern about proposed § 682.405(b)(1)(v) and § 685.211(f)(1)(iii), which would provide borrowers with an opportunity to object to an offer of a reasonable and affordable payment amount that is presented to the borrower in a written rehabilitation agreement. The commenter stated that many borrowers will be offered payment amounts orally, and believed that these borrowers should be able to object to the offered payment amount at that point. This commenter noted that requiring borrowers to wait until they receive a written offer will only delay or deter the borrowers from rehabilitating their loans.

*Discussion:* We agree that a loan servicer may make a first offer of the rehabilitation payment amount based on the 15 percent IBR formula to a borrower orally. If the borrower agrees to the payment amount, the borrower would have to follow up on the conversation by providing the loan holder with the documentation required to calculate a payment amount under that formula. Consistent with §§ 682.405(b)(1)(iii) and 685.211(f)(3), the borrower may object to the initial offer at the time it is made.

*Changes:* We have revised § 682.405(b)(1)(iv) and § 685.211(f)(1)(ii) to specify that a guaranty agency or the Department may calculate a payment amount based on information provided orally by the borrower, and may provide the borrower with a rehabilitation agreement using that amount. We have also specified in revised §§ 682.405(b)(1)(iv) and 685.211(f)(1)(ii) that if the borrower does not provide the guaranty agency or the Department with the documentation required to calculate the payment amount using the 15 percent formula or to confirm the information provided orally on which the Secretary or the guaranty agency calculated the payment amount, the rehabilitation agreement entered into for that amount is null and void.

*Comments:* We received several comments on §§ 682.405(b)(1)(v) and 685.211(f)(1)(iii). Section 682.405(b)(1)(v) of the proposed regulations stated that a guaranty agency ''may not impose any other conditions unrelated to the amount or timing of the rehabilitation payments'' in a rehabilitation agreement. Section 685.211(f)(1)(iii) of the proposed regulations provided that the Secretary would not impose such conditions in rehabilitation agreements for Direct Loans. Several commenters stated that some guaranty agencies currently require a borrower's written acknowledgement of the borrower's understanding of the terms and conditions of rehabilitation, which these commenters stated is a prudent practice when establishing a new repayment agreement with a borrower. In such cases, the borrower may be required to sign and return the agreement or provide a separate, signed authorization statement acknowledging, at a minimum, that collection costs will be added to the loan balance at the time the rehabilitated loan is purchased by an eligible lender. These commenters

believed that this requirement for the borrower to review and acknowledge the information provided in the rehabilitation agreement underscores the importance of rehabilitation as a one-time opportunity to remove loans from default status. It also reduces the possibility of misunderstandings about the terms of the loan rehabilitation and related risks for guaranty agencies in the event of a dispute concerning the applicable repayment terms and conditions, costs, and benefits of loan rehabilitation.

Commenters noted that guaranty agencies may also currently require a borrower to provide updated references and contact information to facilitate the loan rehabilitation process. The commenters stated that this provides a purchasing lender with important default prevention information, if needed, since the borrower's contact information may be incomplete or outdated and the references provided in the promissory note may no longer be valid. This enhances a guaranty agency's ability to sell the borrower's rehabilitation-eligible loans. These commenters requested confirmation from the Department that the proposed regulations would not preclude guaranty agencies from continuing these practices.

*Discussion:* The limitation in the proposed rule that would preclude a guaranty agency from imposing any additional conditions on loan rehabilitation unrelated to the amount or timing of rehabilitation payments was not intended to prohibit the agency from requiring borrowers to acknowledge the terms and conditions of the rehabilitation in writing, or from requiring borrowers to provide updated contact information when the loan rehabilitation agreement is signed. Requiring the borrower to acknowledge such disclosure information, or to provide such contact information, would be helpful to the borrower. It would help to ensure that the borrower understands the rehabilitation agreement, and, where necessary, facilitate the sale of the loan to a FFEL loan holder.

*Changes:* None.

*Comments:* There were several comments on proposed §§ 682.405(b)(1)(vi) and 685.211(f)(3) in the proposed regulations. These commenters stated that the terms ''IBR formula'' or ''IBR calculation'' should not be used in connection with describing the method used to determine a reasonable and affordable rehabilitation payment amount. These commenters believed that using these terms would cause significant confusion for borrowers, since payments made towards loan rehabilitation do not count as IBR payments. These commenters recommended using the term ''alternative payment amount'' or ''APA'' to refer to this formula.

These commenters also noted that proposed §§ 682.405(b)(1)(vi) and 685.211(f)(5) include a cross-reference to the IBR regulations at § 682.215(b)(1), § 685.221(b)(1), and § 685.221(b)(2). Those regulations include other requirements in addition to the IBR payment amount formula. These commenters believed that using the broad cross reference could be interpreted as incorporating these other provisions not specifically related to the formula as applying to the rehabilitation requirements as well.

These commenters recommended that the Department include the ''alternative payment amount'' formula directly in the loan rehabilitation regulations, rather than cross-referencing the IBR regulations.

*Discussion:* As discussed earlier in this preamble, in the final regulations we have switched the order in which the rehabilitation payment amounts are determined and offered to borrowers. Under the final regulations, the payment amount based on the 15 percent formula will be the first offer to the borrower, and the payment amount based on information provided on the financial disclosure form will be the second offer. The borrower may choose which payment amount to accept. Since the 15 percent formula payment will be the first payment amount offered during rehabilitation discussions, it would not be accurate to refer to it as the ''alternative payment amount.''

We agree with the commenters that we do not intend the extensive and detailed requirements in §§ 682.215(b)(1), 685.221(b)(1), and 685.221(b)(2) of the IBR regulations to apply to determining a loan rehabilitation payment amount. Replacing the cross-references with the 15 percent formula will make the loan rehabilitation regulations simpler and clearer. In addition, eliminating the cross-references may reduce the potential for borrowers to confuse rehabilitation payments based on the 15 percent formula with payments made by a non-defaulted borrower under the IBR plan. Eliminating the cross-references also clarifies that the initial rehabilitation payment amount for a ''new borrower'' as defined in § 685.221(a)(4) of the IBR plan regulations would not be calculated using the 10 percent IBR formula as described in § 685.221(b)(1) of the IBR plan regulations. Regardless of how a loan rehabilitation payment amount is determined, a rehabilitation payment does not qualify as an IBR plan payment and does not count toward IBR plan loan forgiveness or for any other purposes for which a qualifying payment made under the IBR plan on a non-defaulted loan might count, such as for public service loan forgiveness in the Direct Loan Program.

*Changes:* We have replaced the cross-references in §§ 682.405(b)(1)(iii) and 685.211(f)(1)(i) with the 15 percent formula.

*Comments:* In the NPRM, the Secretary invited comment on proposed §§ 682.405(b)(1)(vii) and 685.211(f)(5), which would provide that a loan rehabilitation does not go forward if the borrower fails to provide the documentation required for the payment amount to be calculated. The Secretary asked if it would be appropriate to make a change in the final regulations to require a borrower to submit information needed to recalculate the borrower's reasonable and affordable rehabilitation payment amount only if new information is required beyond what the borrower provided when he or she initially requested loan rehabilitation. Several commenters responded to this invitation for comment, and all supported making this change in the final regulations. One commenter requested that the Department's final regulations be flexible enough to cover the following scenarios:

- Some information or documentation originally submitted by the borrower is illegible or difficult to understand, and needs to be requested again or explained.
- Significant time passes between the borrower's initial request for rehabilitation and the borrower's subsequent request for a recalculated payment amount, so a verification of critical information may be needed to determine an appropriate payment amount.
- The borrower realizes after submitting the original information/documentation that the submission was incomplete or inaccurate, and that additional information or documentation is needed by the loan holder to determine an appropriate payment amount.

*Discussion:* As discussed earlier in this preamble, we have switched the order in which rehabilitation payment amounts are offered to borrowers. Under the final regulations, a payment amount calculated using the 15 percent formula will be the basis for the first offer. If the borrower objects to that amount, the guaranty agency or the Department will

calculate a payment amount based on detailed financial information provided by the borrower, and the borrower may then choose between the two payment amounts. Except when the loan is being collected by AWG, it is extremely unlikely that the loan holder will already have the detailed financial information requested on the form. Therefore, there is no need to make the requested change.

*Changes:* None.

*Comments:* One commenter expressed support for the provision in proposed § 682.405(b)(1)(x) that would limit guaranty agency contact with a borrower during the rehabilitation period to collection activities required by law and communications with the borrower that support the rehabilitation.

*Discussion:* We appreciate the commenter's support. We also note that this provision, in §§ 682.405(b)(1)(xi) and § 685.211(f)(7), does not prohibit guaranty agencies or the Secretary from contacting borrowers to remind them when the next payment is due or, in appropriate circumstances, to inquire about any missed payments. The intent of such calls is to ensure that the borrower maintains the consecutive monthly payment stream required to successfully rehabilitate a loan. Contacts of this type between a guaranty agency or the Secretary and a borrower are ''communications that support the rehabilitation.''

*Changes:* None.

*Loan Rehabilitation Agreement: Treatment of Borrowers Subject to Administrative Wage Garnishment (34 CFR 682.405(a) and 685.211(f))*

*Comments:* Three commenters expressed support for the proposed regulations in §§ 682.405(a)(3) and 685.211(f)(12)(i) that would suspend payments made through administrative wage garnishment (AWG) for borrowers who make five qualifying payments under a loan rehabilitation agreement. These commenters felt that this step would be a reward and an incentive for borrowers and would encourage defaulted borrowers to rehabilitate their loans.

Several commenters stated that proposed § 682.405(a)(3) appears to assume that a guaranty agency would not be required to suspend the borrower's current garnishment order for another reason prior to receipt of the borrower's fifth loan rehabilitation payment. However, these commenters noted that this may not always be the case under the current and proposed AWG regulations in § 682.410(b)(9). For instance, if a borrower does not request a hearing prior to the initiation of AWG, but does so shortly after AWG commences, the AWG hearing process would occur during the period of the borrower's first five payments under a loan rehabilitation agreement and could result in a required suspension of the garnishment order during that time. These commenters recommended that § 682.405(a)(3) be modified to include a reference to § 682.410(b)(9) to clarify that a guaranty agency may suspend a garnishment order for a borrower pursuing loan rehabilitation prior to receipt of the borrower's fifth rehabilitation payment, if required to do so for another reason in accordance with § 682.410(b)(9).

*Discussion:* We agree with the commenters. The proposed regulations governing suspension of AWG payments after a borrower makes five qualifying rehabilitation payments were not intended to preclude guaranty agencies or the Department from suspending AWG collection for reasons unrelated to the loan rehabilitation before the borrower makes a fifth qualifying loan rehabilitation payment. As the commenters noted, a guaranty agency may receive a notice to suspend AWG due to other reasons, as specified in § 682.410(b)(9) of the AWG regulations.

*Changes:* We have revised § 682.405(a)(3)(i) to specify that the requirement that a guaranty agency continue collecting a loan by AWG until the borrower makes five qualifying monthly rehabilitation payments does not apply if the guaranty agency is precluded from collecting through AWG under § 682.410(b)(9)(i), and have made a comparable change in § 685.211(f)(11)(i) of the Direct Loan regulations.

*Modification of the FFEL Program and Direct Loan Program Regulations: Counseling Borrowers (34 CFR 682.604(a) and 685.304(b))*

*Comments:* One commenter expressed support for the proposed changes to the exit counseling regulations that would allow a school to send written counseling materials to a student borrower by email when the student has withdrawn without notice to the school or failed to complete required exit counseling. However, the commenter believed that the wording of proposed §§ 682.604(a)(1) and 685.304(b)(3) could be misinterpreted, as it could be read to mean either that a student must provide an email address to the school within 30 days after the school learns that the student has withdrawn, or that the school must provide the written counseling materials to the student by email within 30 days after learning of the student's withdrawal. The commenter assumed that the second interpretation is what was intended, and recommended that the regulatory language be revised to make this clear.

The same commenter also noted that in the preamble to the NPRM, the Department indicated that the proposed changes in §§ 682.604(a)(1) and 685.304(b)(3) allowing schools to send written counseling materials to an email address provided by the student borrower in certain cases reflected existing guidance included in the Department's Federal Student Aid Handbook. The commenter pointed out that the guidance in the Federal Student Loan Handbook clarifies that if a school sends exit counseling materials to a student by email, the school must use the student's ''home (not school) email address,'' if the school has that address. The commenter recommended that the Department include in the regulations this prohibition on sending the counseling materials to the student borrower's school email address, but stated that there should be no reason to limit schools to sending exit counseling materials only to a student's ''home'' email address. The commenter stated that as long as the school does not send the counseling materials to an email address associated with its own institution, it should be able to send the materials to the student's home or work email address, or even to an email address for the student at another institution where the student is in attendance.

*Discussion:* The Department appreciates the commenter's support of the changes to the exit counseling regulations. With regard to the intent of the wording of proposed §§ 682.604(a)(1) and 685.304(b)(3), the commenter's understanding is correct. The school must send the counseling materials within 30 days after learning that the student borrower has withdrawn or failed to complete the required exit counseling.

The Department agrees with the recommendation to incorporate into the regulations the statement in the Federal Student Aid Handbook clarifying that written counseling materials may not be sent to a student borrower's email address at the same school that is sending the materials. We also agree that schools should not be limited to sending the counseling materials to the student's ''home'' email address. However, we note that the proposed regulations did not include this limitation. The proposed regulations stated that the written counseling materials could be sent to ''an email address provided by the borrower.''

*Changes:* We have revised §§ 682.604(a)(1) and 685.304(b)(3) to clarify that the school must send the counseling materials within 30 days after learning that the student borrower has withdrawn or failed to complete the required exit counseling, and that the counseling materials may not be sent to a student's email address at the same school that is sending the materials.

**FFEL Program Issues**

*FFEL Lender Repayment Disclosures to Borrowers Who Are 60 Days Delinquent or Who Are Having Difficulty Making Payments (34 CFR 682.205(a)(4))*

*Comments:* One commenter agreed with the proposed change to provide lenders with five business days rather than the five calendar days specified in current regulations to send the required disclosure to a borrower who is 60 days delinquent. The commenter also supported the proposed change to provide that a lender does not have to send the required disclosure when a borrower is having difficulty making payments if the borrower's difficulty had already been resolved based on an earlier communication between the lender and the borrower. The commenter agreed that multiple disclosures would confuse the borrower.

*Discussion:* The Secretary appreciates the commenter's support.

*Changes:* None.

*Administrative Wage Garnishment of the Disposable Pay of Defaulted FFEL Program Borrowers (34 CFR 682.410(b)) Borrower Hearing Opportunities on the Enforceability of the Debt and a Borrower's Claim of Financial Hardship (34 CFR 682.410(b)(9)(i))*

*Comments:* One commenter noted support for the changes made to the FFEL administrative wage garnishment regulations in the NPRM.

*Discussion:* The Department appreciates the commenter's support for the revised regulatory language.

*Changes:* None.

*Comments:* Under proposed § 682.410(b)(9)(i)(F)(*2*)(*iv*), if a hearing official upholds a borrower's objection to the amount or rate of withholding, a guaranty agency ''may'' order a lesser rate or amount that would allow the borrower to meet basic living expenses. On pages 45641 and 45642 of the NPRM, we pointed out that this provision differs from the rules governing AWG for Department-held loans at 34 CFR part 34, and that, in the latter regulations, the word ''must'' is used instead. We invited comments on whether it was preferable to use ''must'' rather than ''may''. One commenter supported the consensus language in the NPRM without further explanation. Another commenter agreed with the Department's suggestion that ''must'' was a preferable term because a hearing official's financial hardship determination and decision regarding the amount or rate of withholding should be binding on the guaranty agency issuing a withholding order, and because the regulatory language for guaranty agencies and the Department should be consistent.

*Discussion:* We agree with the commenter who expressed support for changing the term ''may'' to ''must.'' Not only is it important to ensure that substantive provisions of the FFEL Program AWG regulations are consistent, to the extent practicable, with the rules governing AWG for Department-held loans, use of the term ''must'' would provide more equitable treatment for borrowers who are subject to AWG. Furthermore, use of the term ''must'' would ensure that borrowers who receive an opportunity for an independent determination of a financial hardship objection will have that determination followed by the guaranty agency issuing a withholding order. The decision of the hearing official binds the guaranty agency or the Secretary as to the maximum amount that may be ordered withheld from the borrower's wages and neither has discretion to order that a greater amount be withheld.

*Changes:* We have changed ''may'' to ''must'' in § 682.410(b)(9)(i)(F)(*2*)(*iv*).

*Comments:* On page 45641 of the NPRM, when discussing the determination of whether a withholding amount would cause a financial hardship to a borrower, we invited comments on whether the term ''National Standards'' used in the proposed rules should be changed to ''Collection Financial Standards'' in the final rules to conform to the term used by the IRS to refer to such standards. One commenter expressed support for making this change in the final rule, stating that the term ''Collection Financial Standards'' more accurately reflects all living expense category standards used in determining whether a withholding amount would cause a financial hardship for the borrower.

*Discussion:* We agree with the commenter's reasons for changing the term to ''Collection Financial Standards.'' The IRS, which promulgates the standards, uses the term to include both what the IRS calls the ''National Standards'' (food, etc.) as well as the regionalized Housing and Utilities Standards and Transportation Standards. The latter include average amounts spent for housing, utilities, and transportation, which represent a significant portion of borrowers' living expenses. The term ''Collection Financial Standards'' is the correct title of the IRS Standards that hearing officials must use when determining the financial hardship for borrowers.

*Changes:* We have changed the three uses of the term ''National Standards'' to ''Collection Financial Standards'' in § 682.410(b)(9)(i)(F)(*2*)(*ii*) and (*iii*).

*Comments:* A commenter noted that proposed § 682.410(b)(9)(i) does not address a situation in which a guaranty agency may be required to suspend a withholding order. Under proposed § 682.405(a)(3), a borrower who makes five qualifying payments under a rehabilitation agreement can request that the agency suspend a withholding order. The commenter suggested including a cross-reference in the AWG regulations to § 682.405(a)(3) and a brief description of a borrower's right to request suspension under that provision.

*Discussion:* We agree with the commenter's suggestion and believe that including such a reference in § 682.410(b)(9)(i) would be beneficial. All AWG regulatory provisions are located or referenced in § 682.410(b)(9) to minimize confusion.

*Changes:* We have added a new § 682.410(b)(9)(i)(V) to include a cross-reference to § 682.405(a)(3) and describe the possible suspension of the withholding order.

*Comments:* A commenter noted that in proposed § 682.410(b)(9)(ii)(G), the Department defines a withholding order as the order a guaranty agency sends to an employer directing the employer to withhold the pay of the employed borrower. However, the commenter also noted that the Department states that such an order may also be referred to as a ''wage garnishment order'' or ''garnishment order.'' The commenter suggested that only one of these terms be used to avoid confusion with other communications sent by the agency.

*Discussion:* In the proposed regulations, the Department distinguished between an ''order,'' which is the term for the mandate issued to the employer requiring the employer to withhold from the borrower's wages, and a ''notice,'' which refers to the warning sent to the borrower to alert the borrower that the agency is preparing to enforce the loan by garnishment of the borrower's wages. Because these two communications are readily distinguished by the use of the term ''order'' to refer to the legally-binding mandate and ''notice'' to refer to correspondence sent to the borrower,

we do not believe that alternative use of the term ''garnishment'' or ''withholding'' prior to ''order'' will cause any confusion.

*Changes:* None.

*Comments:* A commenter stated that the proposed rule would allow borrowers two new bases on which they may object to AWG in the FFEL program: Enforceability of the debt and financial hardship. The commenter further asserted that the HEA does not specifically name these as permissible objections, but acknowledges that borrowers have been permitted to use these objections. The commenter further expressed concern that AWG hearing officials are unqualified to make legal determinations of loan enforceability. The commenter therefore requested a standardized appeal process if a hearing official makes an enforceability determination that the guaranty agency believes is erroneous.

*Discussion:* First, we note that the commenter is incorrect in asserting that section 488A of the HEA does not provide borrowers with the right to object to AWG on the basis of claims that the debt is not enforceable or on the basis of financial hardship. We address these issues in turn.

Second, Section 488A(a)(5) provides borrowers the opportunity for a hearing concerning ''the existence or the amount of the debt.'' 20 U.S.C. 1095a(a)(5). It is not clear which objections the commenter considers the HEA to permit the borrower to raise in the hearing, but the statute is clear that if the borrower objects to the existence or amount of the debt claimed by the loan holder, the hearing official must determine whether the debt in question is enforceable, and if so, what amount is enforceable. In the context of section 488A of the HEA, determining whether a debt ''exists'' entails more than a bookkeeping test of assuring that all amounts disbursed and payments received have been correctly totaled. To reduce the hearing process to a bookkeeping exercise is to suggest that section 488A of the HEA empowers a guarantor to issue a legally-binding order that an individual's wages be withheld to collect a claim that applicable law would bar the guarantor from enforcing in any other proceeding, such as a suit on the debt. Section 488A of the HEA authorizes collection by non-judicial wage garnishment ''notwithstanding any provision of State law.'' 20 U.S.C. 1095a. That provision does no more than preempt those State laws that would require a creditor to obtain a judicial writ in order to garnish wages. Nothing in the language of section 488A of the HEA suggests that the statute preempts other applicable, non-preempted State law (e.g., forgery or prior compromise) or Federal law (e.g., discharge in bankruptcy) that would bar enforcement of the claim against the individual.

For this reason, it is the responsibility of guaranty agencies to ensure that AWG hearing officials are qualified to make reasoned determinations regarding the enforceability of Federal student loan debts. Furthermore, prior to an AWG hearing, a guaranty agency should have already made a determination on the enforceability of the debt. Section 682.406(a) requires an agency to carefully evaluate that all due diligence requirements were met and that the debt is legally enforceable before requesting a reinsurance payment on a loan.

In addition, promptly after paying the default claim, the guarantor must give the borrower notice of its intent to collect the loan and report the default to credit bureaus, and to provide ''an opportunity for an administrative review of the legal enforceability or past-due status of the loan.'' 34 CFR 682.410(b)(5)(ii)(D) and (b)(5)(vi)(I). Prior to an AWG hearing, the agency should have therefore made its own reasoned determination of the enforceability of the debt and have sufficient evidence supporting that determination. The new language added to the wage garnishment provisions is not a new consideration not already existing explicitly in these provisions and implicitly in the mandate to provide a hearing on the ''existence'' of the debt.

Third, section 488A(a)(5) of the HEA provides borrowers with an opportunity for a hearing ''on the terms of the repayment schedule'' if that schedule is set by order and not by an agreement with the borrower, as provided in section 488A(a)(4) of the HEA. The only interpretation of this provision that implements the objective of the statute is that the basis for such objection must be a claim that withholding the full 15 percent would cause financial hardship. The Department has consistently interpreted that phrase, and the identical language in 5 U.S.C. 5514, which authorizes Federal Salary Offset and from which this provision appears to have originated, to so provide. See, e.g., 68 FR 8142, 8151 (Feb. 19, 2003) and 67 FR 18072, 18073 (April 12, 2002). In establishing the terms of the repayment schedule, a determination must be made as to whether the proposed withholding order would be excessive in light of the borrower's reasonable and necessary living expenses.

Finally, with regard to the comment that the Department should establish an administrative appeal procedure to be available for review of hearing official decisions that the guarantor believes to be erroneous, the Department notes first that in some instances, State law applicable to the administrative proceedings of State agencies may provide such an appellate review procedure, and those laws may provide an opportunity for borrowers or guarantors to challenge decisions of hearing officials. Those guarantors that are not State agencies subject to this kind of administrative appeal regime are in no different posture than the Department itself, which has no opportunity to appeal adverse rulings by independent hearing officials with regard to proposed salary offsets to collect from Federal employees under 5 U.S.C. 5415. Federal employees who dispute the hearing official's ruling may sue the Department under the Federal Administrative Procedure Act to challenge that ruling. See, e.g., *Sibley* v. *U.S. Department of Education,* 913 F. Supp. 1181 (N.D. Ill. 1995), aff'd, 111 F.3d 133 (7th Cir. 1997). Applicable law gives the Department no corresponding right to challenge and obtain a judicial review of an adverse ruling by a hearing official. The Department has not established any administrative appeal procedure for challenges to AWG hearing decisions made by Department staff, and has no resources sufficient to establish a Federal review process for AWG hearing decisions for loans held by guarantors. Moreover, regardless of the party that might decide such an appeal, fundamental fairness dictates that any administrative appeal process be available for borrowers as well as guarantors.

Therefore, the proposed regulations at § 682.410(b)(9) do not create new borrower objections; instead, the proposed changes would make the FFEL Program regulations consistent with existing Departmental regulations.

*Changes:* None.

*Comments:* A commenter noted that proposed § 682.410(b)(9)(i)(I) includes rules governing ex parte communications (communications where one or more parties to the hearing are not present) in AWG hearings and that the provision precludes ex parte communications on non-procedural matters. The commenter expressed concern that, as drafted, the proposed rule would unnecessarily impede the administration of the hearing process. The commenter also requested clarification that substantive ex parte communications during a hearing are permissible if the absent party has been given proper notice of the hearing.

*Discussion:* We agree with the commenter's suggestions. The intention of the proposed provision was to ensure that both parties to the hearing are present and able to participate. However, we recognize that borrowers would not be disadvantaged by allowing certain administrative matters to be handled ex parte in addition to matters involving the time, place, and manner of the hearing as would be permitted under the proposed rule.

We also agree that the hearing process should not be unnecessarily delayed due to the unexcused absence of one of the parties when proper notice of the hearing has been given to the absent party. Under the proposed rules, a guaranty agency is required to suspend a withholding order on the 61st day after a hearing request was received. Therefore, without allowing an ex parte hearing to proceed in such contexts, it would be possible for a party to effectively enforce the suspension of an AWG order by failing to appear for properly scheduled and noticed hearings, because such hearings could not proceed in the absence of one of the parties.

*Changes:* We have revised § 682.410(b)(9)(i)(I) to more generally convey the intent that communications on administrative matters not related to the substance of the AWG hearings may be conducted on an ex parte basis. We have also revised this section to allow an ex parte hearing to proceed if the parties have agreed on the time, place, and manner of the hearing and the borrower has been given proper notice of the same but does not appear for the hearing.

*Comments:* A commenter stated that proposed § 682.410(b)(9)(i)(F)(*1*)(*ii*) and (b)(9)(i)(J) permit a borrower to raise new objections and provide additional evidence before the hearing is completed. The commenter further noted that while the hearing official may grant an extension of the 60-day decision deadline so the borrower may present additional evidence, the regulations do not allow extension of the deadline to raise objections. The commenter requested a clarification on whether the 60 day decision deadline could be extended for the latter purpose.

*Discussion:* We agree with the commenter's suggestion. If a borrower has not raised an objection to the AWG order but wishes to do so, the hearing official may grant an extension of the 60-day deadline at his or her discretion.

*Changes:* We have revised § 682.410(b)(9)(i)(J)(*1*) to state that the borrower may request an extension of the 60-day deadline for purposes of raising an objection not previously raised.

*Comments:* A commenter noted that proposed § 682.410(b)(9)(i)(J) permits a hearing official to grant extensions of the 60-day deadline for a decision to be rendered. The commenter further noted that while this deadline may be extended by the hearing official, there is no associated extension of the requirement under proposed § 682.410(b)(9)(i)(H) that suspension of the withholding order occur if a decision is not rendered by the 61st day. The commenter requested that the regulations be modified to require that the suspension of the withholding order be delayed past the 61st day for a period equal to the number of days that the hearing deadline is delayed.

*Discussion:* The purpose of suspending the withholding order beginning on the 61st day is to create an incentive for ensuring that the AWG hearing is completed and a decision issued on a timely basis. While the commenter is correct that § 682.410(b)(9)(i)(J)(*1*) *permits* the hearing official to grant extensions of the 60-day deadline at the request of the borrower, § 682.410(b)(9)(i)(J)(*2*) *requires* the hearing official to grant an extension made at the request of a guaranty agency. Changing the regulations to be consistent with the commenter's suggestion would create a scenario where a guaranty agency could request extensions that a hearing official would be compelled to grant, resulting in failure to suspend a withholding order long past the 61-day deadline required under the proposed regulations. Such a regulatory framework would eliminate the guaranty agency's incentive to ensure a timely hearing.

*Changes:* None.

*Comments:* A commenter requested that the AWG regulations be modified to allow a borrower to request that AWG continue during the hearing process. The commenter noted that the proposed regulations governing loan rehabilitation provide for suspension of a garnishment order for a borrower pursuing loan rehabilitation, but allow the borrower to affirmatively request to remain in AWG while completing the loan rehabilitation process. The commenter stated that these two situations are comparable and that rather than automatically suspending a withholding order on the 61st day after the borrower's hearing request, a borrower should be able to request that the order not be suspended.

*Discussion:* We believe there are significant distinctions between the two situations the commenter describes. In many cases, the borrower seeking loan rehabilitation intends to pay the balance of his or her loan, and continuation of AWG in that context is one plausible mechanism by which a borrower would seek a reduced principal balance upon successful rehabilitation of the loan. However, a borrower objecting to the amount or existence of the debt or the rate of withholding would not, by definition, be interested in the continuation of AWG at the existing rate. In addition, we are concerned that providing the borrower the option to continue AWG may make the borrower feel pressured to accept the offer, or cause the borrower to fail to understand he or she has the option to decline it.

*Changes:* None.

**Executive Orders 12866 and 13563**

*Regulatory Impact Analysis*

Under Executive Order 12866, the Secretary must determine whether this regulatory action is ''significant'' and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities in a material way (also referred to as an ''economically significant'' rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This regulatory action will have an annual effect on the economy of more than $100 million. It is estimated to reduce annual paperwork burden on entities participating in the Federal student loan programs by approximately $109 million. Therefore, this final regulatory action is economically significant and subject to review by OMB under section 3(f)(1) of Executive Order 12866.

We have also reviewed these regulations pursuant to Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing

regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with attaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and

(5) Identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

Executive Order 13563 requires agencies ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' The Office of Information and Regulatory Affairs within OMB emphasized that these techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.''

We are issuing these final regulations only upon a reasoned determination that their benefits justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis below, the Department believes that these final regulations are consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action will not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

In this regulatory impact analysis we discuss the need for regulatory action, the potential costs and benefits, net budget impacts, assumptions, limitations, and data sources, as well as regulatory alternatives we considered. Elsewhere in this section under *Paperwork Reduction Act of 1995,* we identify and explain burdens specifically associated with information collection requirements.

*The Need for Regulatory Action*

As detailed in the Notice of Proposed Rulemaking (NPRM) published July 29, 2013, the Department is issuing these final regulations to clarify a number of issues related to the administration of the Federal student loan programs, to make the Direct Loan regulations comprehensive, to eliminate regulations in the FFEL Program that are no longer needed because origination of new FFEL loans ceased with the passage of the SAFRA Act, to reflect changes made to interest rates in the Direct Loan Program by the Bipartisan Student Loan Certainty Act of 2013, and to clarify the loan rehabilitation process for borrowers with defaulted student loans.

The Secretary is revising the Direct Loan regulations to incorporate provisions from the FFEL regulations that were only cross-referenced. By incorporating the substantive provisions in the Direct Loan regulations instead of simply cross-referencing to the FFEL regulations, the Direct Loan regulations will be comprehensive. This is appropriate since the Direct Loan Program is now the primary Federal student loan program. The elimination of new loan originations in the FFEL Program means that many of the current FFEL Program regulations are no longer necessary. In addition, the final regulations improve consistency across the FFEL, Direct Loan and Perkins Loan programs. Previously, the different title IV loan programs were regulated and administered differently in areas where they could be consistent. The final regulations eliminate these differences where appropriate.

The final regulations provide clarity and transparency to the administration of the loans programs. Over the years there have been consistent concerns that borrowers are unable to properly manage their Federal student loans because of confusion over their rights and options. This is particularly true for borrowers who are delinquent on their loans and borrowers who experience personal hardship. The final regulations clarify the rules for borrowers and help them gain a better understanding of their rights and responsibilities. Also, the final regulations provide better guidance to lenders and guaranty agencies about their roles and responsibilities in servicing Federal student loans.

One area in which concerns have been raised about the consistent and appropriate treatment of borrowers is in the rehabilitation of defaulted loans. The Department wants to ensure that borrowers who wish to rehabilitate their defaulted loans are properly informed about their rights to ''reasonable and affordable'' payments and how a reasonable and affordable payment is determined.

Prior regulations allowed a borrower with defaulted student loans to rehabilitate those loans by making nine full, on-time payments (within 20 days of the due date) over a 10-month period in an amount agreed to by the borrower and the loan holder (the Department for a defaulted Direct Loan, a guaranty agency or the Department for a defaulted FFEL Program loan). These regulations provided that the payment amount required by the guaranty agency or the Secretary must be reasonable and affordable. However, as described in the NPRM published July 29, 2013, there have been complaints that guaranty agencies, the Department, and the debt collection agencies that collect Federal student loans require payments that exceed this standard.

The Secretary believes that providing borrowers with an improved process to rehabilitate a defaulted loan is in the best interests of the taxpayers and the borrower. Defaulted borrowers continue to accrue interest on the debt and are charged collection costs. In addition, the default harms their credit scores, and the borrowers may have trouble purchasing homes or obtaining auto loans or other types of consumer credit. By improving the opportunities for defaulted borrowers to rehabilitate their student loans, the Department will not only improve the chances for collection of the full amount of the debt but also help some defaulted borrowers return to full economic participation.

Some defaulted borrowers who may be interested in rehabilitating their defaulted loans are also subject to administrative wage garnishment (AWG). Those borrowers may be discouraged from trying to fully rehabilitate their loans because they fear that they will not be able to make loan payments in addition to the amount garnished. Through these final regulations, the Department aims to add clarity to the AWG process so that affected borrowers will understand what is required for AWG to be suspended.

*Discussion of Costs, Benefits, and Transfers*

Adding clarity to the loan rehabilitation process offers many benefits. The Department believes that rehabilitation offers benefits for students, the Department, and the Nation. Defaulted borrowers may be

more willing to complete the rehabilitation process. Defaulted borrowers may see significant improvements in their credit scores and purchasing power. As these borrowers become bigger participants in the economy, an improved loan rehabilitation process should support positive growth.

Improved loan rehabilitation rates will also allow the Department and collection agencies to concentrate their collection efforts on non-paying borrowers. In general, the more student loan accounts that are active and current, the better for the programs. The Department believes these regulatory changes will help ensure that the Federal student loan programs remain strong and support maximum access to higher education for American students.

As detailed in the NPRM, loan rehabilitations have steadily increased over the past decade, from just over $223 million in defaulted Federal student loan debt in FY 2001 to $5 billion in FY 2011. Loan rehabilitations as a share of collections rose from approximately 4.4 percent in FY 2001 to 43.0 percent in FY 2011. Part of the increase in loan rehabilitation can be linked to growing enrollment, rising tuition, and two economic slowdowns, all of which led to more student loan borrowing. However, the higher percentage of total collections that comes from loan rehabilitation shows that the Department and guaranty agencies are working with borrowers to help them take advantage of the opportunity for loan rehabilitation.

Even though these final regulations could possibly result in lower payment amounts for borrowers while they are rehabilitating their defaulted loans, the borrowers would still be responsible for paying their entire debt. Furthermore, even if loan rehabilitation payments are lowered on average across the board, the Department believes that the overall benefits of having more borrowers current in their debt payments will outweigh any short-term cost of reduced payments.

Overall, the true monetary effect of these final regulations will depend heavily on various factors. The Department has implemented changes to its income-driven repayment options and expects these changes to help slow a rising default rate by offering improved payment management options to borrowers. Also, as the economy continues to improve, the default rate may drop as more borrowers find employment.

Outside of loan rehabilitation, the regulations would provide many additional benefits to borrowers and promote a more efficient and transparent Federal student loan program.

By expanding from 90 to 120 days the window during which a borrower may qualify for a closed school loan discharge after withdrawing from a school that eventually closes, the number of borrowers who qualify for the discharge may increase. However, school closures are a relatively rare occurrence. In 2007, 43 schools participating in the title IV programs closed. This number dropped to 30 in 2008 and to 18 in 2011. While the extended window may mean that more borrowers qualify for a closed school discharge, we do not believe the extension will result in a significant increased cost. In 2011, 214 borrowers received closed school loan discharges for loans valued at approximately $870,000. This was an increase from the 2010 numbers of 50 borrowers with a loan value of $467,000, but still represents a very small portion of outstanding federal student loans.

The expansion of circumstances in which lenders may grant administrative forbearance gives the Department and FFEL lenders more flexibility in dealing with defaulted borrowers. These revisions also clarify the eligibility criteria for forbearances and promote a more transparent loan program.

Borrowers will see other benefits under these final regulations as well. The changes to the AWG hearing process will help borrowers gain a better understanding of their rights and responsibilities in that process and ensure that borrowers are treated consistently by guaranty agencies and the Department. Additionally, the revisions to § 685.301 will allow students who transfer from one school into non-term or certain standard non-term programs at a different school during the middle of an academic year to initially be eligible for a Direct Loan to cover the remainder of the academic year that began at the prior school (up to their remaining eligibility under the annual loan limits), regardless of whether the new school accepts credits from the prior school.

The final regulations also reflect changes made to interest rates in the Direct Loan Program by the Bipartisan Student Loan Certainty Act of 2013 (Pub. L. 113–28). As detailed in § 685.202, under this Act interest rates will be determined each June for new loans being made for the upcoming award year, which runs from July 1 to the following June 30. Each loan will have a fixed interest rate for the life of the loan based on rates for specific Treasury bills or bonds, an add-on determined by a combination of loan type and undergraduate or graduate student status, and an interest rate cap. For example, the interest rate for Direct Subsidized and Unsubsidized Loans made to undergraduates with a first disbursement date on or after July 1, 2013, and before July 1, 2014, is 3.86 percent, based on the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to that June 1 plus 2.05 percentage points. The interest rate for Direct Subsidized Loans and Direct Unsubsidized Loans made to undergraduate students is capped at 8.25 percent. Under this policy, borrowers can benefit from lower interest rates while having the certainty of a fixed rate and a cap on the maximum interest rate as Federal borrowing costs vary in the future. If Federal borrowing costs rise in the future, borrowers with loans in later cohorts may have interest rates greater than would have been the case if the interest rates prior to the enactment of the Bipartisan Student Loan Certainty Act of 2013, had remained in effect, so the inclusion of the caps for various loan types limits future borrowers' exposure to interest rate increases.

Overall, these final regulations strengthen the Federal student loan programs and help support the American postsecondary education system. As more and more students now depend on student loans to pay for their college education, it is essential that borrowers fully understand the rights and responsibilities that are a part of their student loan obligations. It is also essential that the student loan programs operate as efficiently as possible. These revisions are part of the Department's commitment to running efficient loan programs that support more than ten million students per year. This number will grow as the country pursues the President's 2020 goal of leading the world in college degree attainment. Keeping a strong higher education system will be essential to America maintaining its economic advantage in the world.

*Regulatory Alternatives Considered and Analysis of Significant Comments*

We discussed the regulatory alternatives we considered in the NPRM (78 FR 45668). Further, as discussed in the Analysis of Comments and Changes section of this preamble, 25 comments were received in the comment period following publication of the NPRM that ended August 28, 2013. These comments covered a range of issues, including suggestions for technical changes to the FFEL and Direct Loan regulations. The process for determining

a reasonable and affordable payment amount in loan rehabilitation received the most comment.

In particular, several commenters suggested switching the order of the two methods for determining the reasonable and affordable payment amount for loan rehabilitation so that the 15 percent formula would be used first, and only borrowers who object to the amount calculated under this formula would need to provide detailed financial information. Consumer advocates and commenters representing collection agencies agreed that the amount of information required by the proposed financial information form could deter borrowers from pursuing loan rehabilitation. The primary use of the 15 percent formula will allow the borrower and the collection agency to determine a reasonable and affordable payment over the phone based on the borrower's income and family size, subject to later confirmation once the borrower provides required documentation. We agreed with these comments and adopted this approach in the final rule.

In addition to the comments proposing using the 15 percent formula first, we considered the suggestion that an agency should be able to negotiate a reasonable and affordable payment with the borrower on the phone so that the loan rehabilitation process could be initiated when they have the first discussion about rehabilitation with a borrower. The Department agrees that it is important to be able to offer a borrower a reasonable and affordable payment amount during the initial discussion of loan rehabilitation but believes that use of the 15 percent formula, with documentation to follow, as the first option allows this possibility while ensuring consistent treatment of borrowers seeking loan rehabilitation.

*Net Budget Impacts*

As detailed in the NPRM, the final regulations are estimated to have a net budget impact of $2.8 to $3.4 million over ten years from 2013–2022 driven by the expansion of the time period for eligibility for a closed school discharge. Consistent with the requirements of the Credit Reform Act of 1990, budget cost estimates for the student loan programs reflect the estimated net present value of all future non-administrative Federal costs associated with a cohort of loans. A cohort reflects all loans originated in a given fiscal year.

In general, these estimates were developed using the Office of Management and Budget's (OMB's) credit subsidy calculator. The calculator takes projected future cash flows from the Department's student loan cost estimation model and produces discounted subsidy rates reflecting the net present value of all future Federal costs associated with awards made in a given fiscal year. Values are calculated using a ''basket of zeros'' methodology under which each cash flow is discounted using the interest rate of a zero-coupon Treasury bond with the same maturity as that cash flow. To ensure comparability across programs, this methodology is incorporated into the calculator and used Government wide to develop estimates of the Federal cost of credit programs. Accordingly, the Department believes it is the appropriate methodology to use in developing estimates for these regulations. That said, in developing the following Accounting Statement, the Department consulted with OMB on how to integrate our discounting methodology with the discounting methodology traditionally used in developing regulatory impact analyses.

Absent evidence of the effect of these regulations on student behavior, budget cost estimates were based on behavior as reflected in various Department data sets and longitudinal surveys listed under *Assumptions, Limitations, and Data Sources.* Student loan cost estimates are developed across five risk categories: Students at less than four-year for-profit institutions, students at less than four-year public and non-profit institutions, freshmen/sophomores at four-year institutions, juniors/seniors at four-year institutions, and graduate students. Risk categories have separate assumptions based on the historical pattern of behavior—for example, the likelihood of default or the likelihood to use statutory deferment or discharge benefits—of borrowers in each category.

*Closed School Discharge*

The primary budget impact of the final regulations relates to the extension of the time period for a closed school discharge. The final regulations extend the previous 90-day period for a closed school discharge to a 120-day period and provide examples of what qualifies as an exceptional circumstance under which the Secretary may provide a further extension. We estimate these changes to have a cost of approximately $3.1 million over 10 years as the pool of borrowers eligible for discharge will increase. The costs are limited by the small number of closed schools, the availability of teach-outs, and the assignment of recoveries to the Department. In the NPRM, the Department estimated that extending the window to 120 days would result in an additional 100 students receiving closed school discharges totaling approximately $400,000 annually. The Department requested comments about the assumptions and estimates for this provision. We did not receive any comments and did not make any changes to the closed school discharge regulations.

*Loan Rehabilitation*

Two areas related to loan rehabilitation affected by the final regulations are the determination of the reasonable and affordable payment for loan rehabilitation and the limitations on the use of AWG while a borrower is attempting to rehabilitate a defaulted loan. While the regulatory changes in both areas would change the period of time and sources of payments the Department receives, the Department does not estimate that the regulations would have any significant budget impact.

The final regulations refine the process for determining the reasonable and affordable payment for loan rehabilitation to improve consistency across the title IV loan programs. The prior regulations for the FFEL Program require guaranty agencies to negotiate a reasonable and affordable payment for loan rehabilitation with the borrower that takes into account all of the borrower's financial circumstances. The Direct Loan Program did not have similar provisions, but the program does have a similar process for receiving income and expense information and negotiating a payment with the borrower. Over the past months, the Department developed a tool incorporating the 15 percent formula in determining reasonable and affordable payments that has helped increase loan rehabilitations. As discussed in the *Regulatory Alternatives Considered and Analysis of Comments and Changes* sections of this preamble, the Department has agreed to reverse the order of the methods for determining a reasonable and affordable payment so that the 15 percent formula comes first.

With approximately $1.72 billion in defaulted loan balances rehabilitated by the Department in FY 2012, loan rehabilitation is a valuable collections tool that also allows borrowers to improve their credit history and regain eligibility for title IV, HEA Federal student aid. The Department and guaranty agencies have emphasized keeping the loan rehabilitation payment amount close to the payment the borrower will have to make following rehabilitation to avoid significant increases in the required payment. The availability of income-driven repayment plans after rehabilitation of the loan expands the range of payments possible

during rehabilitation that would be in line with post-rehabilitation payments (although payments made under a loan rehabilitation agreement that are based on the 15 percent formula do not count toward IBR plan loan forgiveness if a borrower who has successfully rehabilitated a defaulted loan chooses to repay under the IBR plan post-rehabilitation). This new standard may also help decrease the number of borrowers who re-default, as the required loan rehabilitation plan payment amount should be very similar to the payment amount they make when they return to regular repayment. The final regulations use the 15 percent formula for initial determination of a reasonable and affordable loan rehabilitation payment, and allow borrowers to object to that payment through use of a standardized form that accounts for the borrower's income and expenses to obtain an alternative amount. A borrower may choose between the two proposed payment amounts.

For individual borrowers, the payment offered as a rehabilitation amount calculated using the 15 percent formula might be less than what the Department would determine to be appropriate based on an assessment of the borrower's income and expenses or through negotiation with the borrower without use of a formula. If this is the case, the Department would collect less money during the months the borrower attempts loan rehabilitation, but the borrower would still owe the remaining balance after rehabilitation. In addition, to the extent lower payments encourage borrowers to complete loan rehabilitation and continue payments they otherwise would not make, the final regulations may increase total payments over the life of the loan for some borrowers. The likelihood of borrowers paying less, the same, or more over the life of a loan over time as a result of the changes in defining a reasonable and affordable payment is uncertain, but the Department does not expect it to have an appreciable budget impact.

*Perkins Loans Provisions*

The final regulations also address a few areas related to the Perkins Loan Program including: Revising cancellation progression rates; modifying the treatment of health-related breaks in service for certain loan cancellations; making the eligibility for a graduate fellowship deferment consistent with FFEL and Direct Loan program criteria; making a technical correction to eliminate the debt-to-income economic hardship deferment category for borrowers working less than full-time; defining ''on-time'' for rehabilitation payments; and allowing assignment to the Department of Perkins Loans made before September 13, 1982, without the borrower's Social Security Number (SSN). No changes were made to these provisions as a result of comments on the NPRM. The Department does not estimate a significant budget impact from these provisions. No appropriations have been made to support the Perkins Loan Program since 2008, and institutions make loans from payments made on their portfolios of existing loans. The effect on the Federal budget of increased costs in the Perkins Loan Program is a possible reduction of Federal Perkins Loan assets available to be recalled in future years.

The slight changes in timing associated with defining the on-time payment standard at 20 days is not expected to change the number of borrowers successfully rehabilitating their Perkins loans or the ultimate amount collected from those borrowers, so no budget impact is expected. The ability to assign loans to the Department without the borrower's SSN may facilitate some institutions leaving the program and, if the Department is able to collect on those loans, result in some small additional revenues.

These final regulations change the Department's longstanding policy that a borrower who switches jobs which qualify for loan cancellation under the Perkins Loan Program results in the borrower returning to the first-year cancellation rate. Instead, the final regulations allow borrowers who switch between cancellation categories with the same rate of progression to continue the progression from the last year under the prior category; however, the borrower returns to the first-year cancellation rate if the borrower switches to a category with a different progression rate. While some borrowers may be able to accelerate cancellation of their loans or achieve full cancellation, the nature of the categories affected by the policy change limits the likelihood of borrowers switching between them. To the extent a small number of borrowers do switch and maintain their progression rate instead of falling back to year one, the primary effect is on the timing of cancellation received, not the amount.

Additionally, the final regulations change the current Perkins Loan treatment of a break in teaching service for pregnancy or illness. Previously, to receive credit for a year of teaching service the borrower had to complete the first half of the academic year, begin the second half, and have the employer agree that the teacher fulfilled that year of the contract. In the FFEL and Direct Loan programs, the regulations provide that if a borrower was unable to complete the second half of the year of teaching for reasons covered by the FMLA, the service could count towards cancellation if the employer agreed the contract has been fulfilled for the year.

The final regulations apply the FMLA-related break-in-service exception to all Perkins Loan cancellation categories, not just teachers. As Perkins loan cancellation does not require consecutive service, the Department expects this provision may allow some borrowers to receive credit for a year that would not otherwise have counted as service and speed up the ultimate cancellation of the loan, but it will not significantly expand the number of borrowers who achieve loan cancellation as their next year of service could qualify instead. These cancellation provisions may affect the timing of when borrowers achieve cancellation, but the Department does not estimate that they will significantly increase the overall amount cancelled.

*Additional Provisions*

Many of the final regulations have no impact on the Federal budget as they reflect statutory changes already incorporated into the budget baseline or clarify existing practices. These final regulations reflect changes made to interest rates in the Direct Loan Program by the Bipartisan Student Loan Certainty Act of 2013. These final regulations eliminate many regulations relating to the origination and administration of FFEL Program loans. Those regulations became irrelevant when new FFEL Program loan originations ended as of July 1, 2010. Any costs or savings resulting from the end of FFEL Program loan originations were attributed to the SAFRA Act, so there is no estimated budget impact from these provisions. The budget impact of these changes was already incorporated into the budget baseline.

Updates were also made to the Direct Loan regulations to incorporate specific provisions that previously were included in the Direct Loan regulations by cross-reference to the FFEL regulations. The restructuring of the Direct Loan regulations to remove references to the FFEL Program regulations or to reflect current practices is not estimated to have a budget impact.

*Assumptions, Limitations, and Data Sources*

In developing these estimates, a wide range of data sources was used, including data from the National Student Loan Data System; operational and financial data from Department of Education systems, including especially the Fiscal Operations Report and Application to Participate (FISAP); and data from a range of surveys conducted by the National Center for Education Statistics, such as the 2008 National Postsecondary Student Aid Survey and the 2004 Beginning Postsecondary Student Survey. Data from other sources, such as the U.S. Census Bureau, were also used.

*Accounting Statement*

As required by OMB Circular A–4 (available at *http://www.whitehouse.gov/sites/default/files/omb/assets/omb/circulars/a004/a-4.pdf*), in Table 1, we have prepared an accounting statement showing the classification of the expenditures associated with the provisions of these regulations. This table provides our best estimate of the changes in Federal student aid payments as a result of these regulations. Expenditures are classified as transfers from the Federal Government to student loan borrowers. The transfers with respect to the change in interest rate policy use the annualized outlays as estimated by the Congressional Budget Office (CBO) and discounted to 2013 at 7 percent and 3 percent. While the Department generally does not use estimated outlays from CBO in evaluating regulations, the interest rate policy changes included in these final regulations are statutory and the Department determined that this approach would be appropriate in this instance.

TABLE 1—ACCOUNTING STATEMENT: CLASSIFICATION OF ESTIMATED EXPENDITURES

[In millions]

| Category | Benefits | |
|---|---|---|
| | 7% | 3% |
| Greater consistency between the title IV loan programs | Not Quantified | |
| **Category** | **Costs** | |
| | 7% | 3% |
| Costs of compliance with paperwork requirements | −$109.1 | −$109.8 |
| **Category** | **Transfers** | |
| | 7% | 3% |
| Reduced payments to Federal Government from additional borrowers receiving closed school discharges | $0.40 | $0.40 |
| Statutory changes to the Direct Loan interest rates: Difference in transfer payments from borrowers to the Federal government against a baseline prior to the enactment of the Bipartisan Student Loan Certainty Act of 2013 | $1,168 | $467 |

See the Paperwork Reduction Act of 1995 section of this document for further information on the $109.1 million reduction in costs of compliance with paperwork requirements.

*Final Regulatory Flexibility Analysis*

These regulations affect institutions that participate in the title IV, HEA programs, including alternative certification programs not housed at institutions, and individual borrowers. The U.S. Small Business Administration (SBA) Size Standards define for-profit institutions as ''small businesses'' if they are independently owned and operated and not dominant in their field of operation with total annual revenue below $7,000,000. The SBA Size Standards define nonprofit institutions as small organizations if they are independently owned and operated and not dominant in their field of operation, or as small entities if they are institutions controlled by governmental entities with populations below 50,000. The revenues involved in the sector affected by these regulations, and the concentration of ownership of institutions by private owners or public systems means that the number of title IV, HEA eligible institutions that are small entities would be limited but for the fact that the nonprofit entities fit within the definition of a small organization regardless of revenue. Given the definitions above, several of the entities subject to the proposed regulations are small, leading to the preparation of this analysis.

*Description of the Reasons That Action by the Agency Is Being Considered*

With these regulations, the Department removes certain regulations governing the FFEL Program that are no longer needed and revises Direct Loan Program regulations to ensure that they are comprehensive and to add consistency and clarity to all regulations governing student loans by revising where applicable. Through these regulations, the Department also provides clarity to the loan rehabilitation process for borrowers with defaulted student loans.

*Succinct Statement of the Objectives of, and Legal Basis for, the Regulations*

The final regulations amend the FFEL and Direct Loan program regulations to: reflect changes made to the HEA by the SAFRA Act; incorporate other statutory changes in the Direct Loan Program regulations; update, strengthen, and clarify various areas of the Student Assistance General Provisions, Perkins Loan, FFEL, and Direct Loan program regulations; and provide for greater consistency in the regulations governing title IV, HEA student loan programs.

In addition, on January 21, 2011, President Obama issued Executive Order 13563, ''Improving Regulation and Regulatory Review'' (76 FR 3821). The order requires all Federal agencies to ''consider how best to promote retrospective analysis of rules that may be outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with what has been learned.'' Accordingly, on August 22, 2011, the Department issued its Plan for Retrospective Analysis of Existing

Regulations. (See *ed.gov/policy/gen/reg/retrospective-analysis/index.html*).

Our plan identified a number of regulatory initiatives for retrospective review and analysis. One of those initiatives was transitioning from the FFEL Program, under which new loans ceased on July 1, 2010, to the Direct Loan Program. These final regulations remove obsolete FFEL Program regulations.

*Description of and, Where Feasible, an Estimate of the Number of Small Entities to Which the Regulations Will Apply*

The final regulations affect several categories of entities involved in the administration and servicing of Federal student loans. Many of the regulations relate to notifications, servicing, or collection activities done by loan servicers or entities acting for the Federal government. The Department does not expect these entities to meet the applicable definition of ''small entity.'' The final regulations related to Perkins Loans will affect the institutions that participate in the program, some of which would be classified as small entities. As discussed above, private non-profit institutions that do not dominate in their field are defined as small entities and a few other institutions that participate in the Perkins Loan Program do not have revenues above $7 million and are also categorized as small entities. Table 2 summarizes AY 2010–11 Perkins loan disbursements by institutions that qualify as small entities. Based on the definition of non-profit institutions as small entities, approximately 59 percent of institutions that disbursed Perkins loans in AY2010–11 were small entities.

TABLE 2—AY2010–11 PERKINS LOAN DISBURSEMENT SUMMARY

| AY2010–11 | Public | Non-profit | For-profit | Total |
|---|---|---|---|---|
| Perkins Loan Institutions with disbursements | 545 | 874 | 107 | 1526 |
| Small entities with Perkins disbursements | 2 | 874 | 25 | 901 |
| % of small entities by control | 0.4% | 100.0% | 23.4% | 59.0% |
| Overall Disbursements | 387,694,908 | 448,589,990 | 20,332,961 | 856,617,859 |
| % by control | 45.26% | 52.37% | 2.37% | 100% |
| Amounts at Small Entities | 53,467 | 448,589,990 | 1,012,596 | 2,808,851 |

In the NPRM, the Secretary invited comments from small entities as to whether they believe the proposed changes would have a significant economic impact on them. We did not receive any comments.

*Description of the Projected Reporting, Recordkeeping and Other Compliance Requirements of the Regulations, Including an Estimate of the Classes of Small Entities That Will Be Subject to the Requirement and the Type of Professional Skills Necessary for Preparation of the Report or Record*

The various provisions in the final regulations will modify or increase the paperwork burden on entities participating in the FFEL, Direct Loan, or Perkins Loan programs, as described in the *Paperwork Reduction Act* section. Much of this burden is associated with borrowers or the Department and its agents and therefore does not affect small entities. Table 3 summarizes the estimated burden on small entities, primarily institutions and guaranty agencies, from the paperwork requirements associated with the final regulations. As discussed in the Paperwork Reduction Act section of this preamble, several of the provisions reduce the estimated burden on institutions, lenders, and guaranty agencies from the elimination of regulatory provisions or changes to requirements and this is reflected by the negative numbers in the table.

TABLE 3—SUMMARY OF PAPERWORK REQUIREMENTS FOR SMALL ENTITIES

| Description | OMB Control No. | Small entity hours | Cost ($) | Cost per small entity |
|---|---|---|---|---|
| FFEL forbearance | 1845–0020 | 264 | 6,497 | 650 |
| Reasonable and Affordable loan rehab | 1845–0020 | 69,161 | 1,702,052 | 154,732 |
| Suspension of AWG for rehab borrowers | 1845–0020 | 1,257 | 30,935 | 2,812 |
| School Enrollment Status Reporting | 1845–0019 | 24,342 | 599,068 | 54,461 |
| Deferment of repayment—Federal Perkins Loans—definition of eligible graduate fellowship programs | 1845–0019 | 175 | 4,316 | 22 |
| AWG 3rd party contractors; hearing requests, and hearing administration | 1845–0020 | 57,568 | 1,416,748 | 128,795 |
| Lender disclosure | 1845–0020 | (20,461) | (503,556) | (50,356) |
| Due diligence in making a loan | 1845–0020 | (40,923) | (1,007,112) | (100,711) |
| Equal credit—removal of provision | 1845–0020 | (40,923) | (1,007,112) | (100,711) |
| Eligibility for interest benefits | 1845–0020 | (40,923) | (1,007,112) | (100,711) |
| Basic program agreement | 1845–0020 | (11,174) | (274,982) | (27,498) |
| Records, reports, inspection requirements for GA programs | 1845–0020 | (5,587) | (137,495) | (12,500) |
| Prohibited use of Operating Fund when it contains Federal Fund assets—removal of provision | 1845–0020 | (111,739) | (2,749,889) | (249,990) |
| Funds transferred to Operating Fund by a GA—removal of provision | 1845–0020 | (111,739) | (2,749,889) | (249,990) |
| FISL loan related—removal of provisions | 1845–0020 | (163,692) | (4,028,450) | (884.40) |
| School as lender—removal of provision | 1845–0020 | (206,534) | (5,082,791) | (1,115.87) |
| Exit counseling | 1845–0020 | (134,247) | (3,303,819) | (725.32) |

TABLE 3—SUMMARY OF PAPERWORK REQUIREMENTS FOR SMALL ENTITIES—Continued

| Description | OMB Control No. | Small entity hours | Cost ($) | Cost per small entity |
|---|---|---|---|---|
| Disqualification review of limitation, suspension, and termination actions taken by GA against a school—removal of provision | 1845–0020 | (111,739) | (2,749,889) | (249,990) |

*Identification, to the Extent Practicable, of All Relevant Federal Regulations That May Duplicate, Overlap or Conflict With the Proposed Regulation*

The proposed regulations are unlikely to conflict with or duplicate existing Federal regulations.

*Alternatives Considered*

As described above, the Department participated in negotiated rulemaking in developing the proposed regulations, reviewed comments received in response to the NPRM published July 29, 2013, and considered a number of options for some of the provisions. In particular, the Department reversed the order of the use of the 15 percent formula and the standard form in determining a reasonable and affordable payment for loan rehabilitation, but that is not expected to affect small entities. No alternatives were aimed specifically at small entities.

*Paperwork Reduction Act of 1995*

Sections 674.19, 674.33, 674.34, 682.102, 682.200, 682.205, 682.206, 682.208, 682.209, 682.210, 682.211, 682.212, 682.214, 682.216, 682.301, 682.305, 682.401, 682.402, 682.404, 682.405, 682.406, 682.409, 682.410, 682.411, 682.412, 682.414, 682.417, 682.418, 682.421, 682.507, 682.508, 682.511, 682.515, 682.602, 682.603, 682.604, 682.605, 682.610, 682.711, 682.712, 682.713, 685.205, 685.211, 685.214, contain information collection requirements. Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3507(d)), the Department of Education has submitted a copy of these sections, related forms, and Information Collection Requests (ICRs) to the Office of Management and Budget (OMB) for its review.

The OMB Control numbers associated with the final regulations and related forms are 1845–0015, 1845–0019, 1845–0020, and 1845–0119 (identified as 1845—NEW2 in the NPRM).

In the NPRM, the Department included a draft version of the Financial Disclosure for Reasonable and Affordable Payments form (1845–0120, identified as 1845—NEW1 in the NPRM) and calculated estimated burden for the completion and review of that version. The Department received extensive and detailed comments from the public on the draft form, including all aspects of the form and its intended use. We will require significant time to properly analyze these comments and, if appropriate, rework the form to address them. To allow the time to carefully consider public comment and take necessary action, we will address comments and burden relating to the Financial Disclosure for Reasonable and Affordable Payments form in a separate **Federal Register** notice that will be published after these final regulations.

A Federal agency may not conduct or sponsor a collection of information unless OMB approves the collection under the PRA and the corresponding information collection instrument displays a currently valid OMB control number. Notwithstanding any other provision of law, no person is required to comply with, or is subject to penalty for failure to comply with, a collection of information if the collection instrument does not display a currently valid OMB control number.

*Sections 682.211 and 685.205—Forbearance*

The final regulations amend the current FFEL Program regulations to authorize a lender, prior to resolving a default claim payment, to grant forbearance to a borrower or endorser who is in default on a loan based on the borrower's or endorser's oral request. The current regulations require borrowers to submit a written request for forbearance. The burden calculations address only the added burden created by accepting oral requests for forbearance. These final regulations provide that a forbearance agreement in this situation must include a new agreement to repay the debt signed by the borrower or endorser (as required under the current regulations), or a written or oral affirmation of the borrower's or endorser's obligation to repay the debt. The final regulations define ''affirmation'' for this purpose to be an acknowledgment of the loan by the borrower or endorser in a legally binding manner that can take the form of: (1) A new signed repayment agreement or schedule, or another form of signed agreement to repay the debt (as under current regulations); (2) an oral acknowledgment and agreement to repay the debt that is documented by the lender in the borrower's or endorser's file and confirmed by the lender in a notice to the borrower; or (3) a payment made on the loan by the borrower or endorser. The final regulations also specify that if a forbearance in this situation is based on the borrower's or endorser's oral request and affirmation, the lender must orally review with the borrower the terms and conditions of the forbearance. The lender must also send the borrower or endorser a notice that confirms the terms of the forbearance and the borrower's or endorser's affirmation of the obligation to make the first payment under the forbearance agreement within 30 days after entering into that agreement. The final regulations require the lender to retain a record of the terms and conditions of the forbearance and affirmation in the borrower's or endorser's file.

For the 2011 calendar year, the last year for which data are available, we estimate that 172,915 FFEL borrowers requested forbearance after defaulting on a loan. Of that number, 49,350 borrowers have FFEL program loans held by lenders. Of those borrowers, we estimate that 25 percent (12,338 borrowers) will exercise the option in these final regulations to orally acknowledge the debt and agree to repay the debt. The remaining 123,565 loans for which we estimate borrowers will request forbearance after defaulting will be held by the Department. We estimate that 25 percent of those borrowers (30,891 borrowers) who request forbearance from the Department will exercise the option to orally acknowledge the debt and agree to repay the debt, as would be authorized under these final regulations. Because OMB requires Federal agencies to account for burden imposed on non-Federal entities separately by type, i.e. public, not-for-profit, and for-profit, the following analysis of the burden imposed on lenders other than the Department is broken down by the types of entities. Note that State guaranty agencies are covered under the ''public'' type of entities.

Of the FFEL Program loans held by lenders, we estimate that public holders (State guaranty agencies) will have two FFEL borrowers who seek to orally acknowledge a defaulted FFEL Program

loan. On average, we estimate that it will take the lender 0.17 hours (10 minutes) per oral acknowledgment to orally review with the borrower the terms and conditions of the forbearance and document the conversation and place that documentation in the borrower's or endorser's file. For public holders, we estimate that burden will increase by 0.34 hours (two borrowers multiplied by 0.17 hours per oral forbearance request).

Of the FFEL Program loans, we estimate that not-for-profit holders will have 1,551 FFEL borrowers who seek an oral forbearance on a defaulted FFEL program loan. On average, we estimate that it will take the lender 0.17 hours (10 minutes) per oral acknowledgment to orally review with the borrower the terms and conditions of the forbearance and document the conversation and place that documentation in the borrower's or endorser's file. For not-for-profit holders, we estimate that burden will increase by 264 hours (1,551 borrowers multiplied by 0.17 hours per oral forbearance request).

Of the FFEL Program loans, we estimate that for-profit holders will have 10,785 FFEL borrowers who seek an oral forbearance on a defaulted FFEL Program loan. On average, we estimate that it will take the lender 0.17 hours (10 minutes) per oral acknowledgment to orally review with the borrower the terms and conditions of the forbearance and document the conversation and place that documentation in the borrower's or endorser's file. We estimate that burden will increase by 1,833 hours (10,785 borrowers multiplied by 0.17 hours per oral forbearance request) at for-profit holders.

We estimate there will be an equal amount of burden on the borrower engaged in the oral acknowledgement and agreement to repay the debt request with the lender. The oral acknowledgment process will increase burden by 7,349 hours for all FFEL borrowers (12,338 held by lenders and 30,891 Department-held = 43,229 borrowers multiplied by 0.17 hours per oral forbearance request). Since there is no FFEL general forbearance form approved by OMB, the final regulations will impose new burden.

Collectively, we estimate that these final FFEL forbearance regulations will increase burden by 9,446 hours under OMB Control Number 1845–0020.

The final regulations will amend the current Direct Loan Program regulations to authorize the Secretary, prior to the loan being transferred to the Department's default collections office, to grant forbearance to a borrower or endorser who is in default on a loan based on the borrower's or endorser's oral request. The final regulations provide that a forbearance agreement in this situation must include a new agreement to repay the debt signed by the borrower or endorser (as required under the current regulations), or a written or oral affirmation of the borrower's or endorser's obligation to repay the debt. The final regulations define ''affirmation'' for this purpose to be an acknowledgment of the loan by the borrower or endorser in a legally binding manner that can take the form of: (1) A new signed repayment agreement or schedule, or another form of signed agreement to repay the debt (as under current regulations); (2) an oral acknowledgment and agreement to repay the debt that is documented by the Secretary in the borrower's or endorser's file and confirmed by the Secretary in a notice to the borrower; or (3) a payment made on the loan by the borrower or endorser. The final regulations also specify that if a forbearance in this situation is based on the borrower's or endorser's oral request and affirmation, the Secretary must orally review with the borrower the terms and conditions of the forbearance, and that the Secretary must send the borrower or endorser a notice that confirms the terms of the forbearance and the borrower's or endorser's affirmation of the obligation to make the first payment under the agreement within 30 days after entering into that agreement. The final regulations require the Secretary to retain a record of the terms and conditions of the forbearance and affirmation in the borrower's or endorser's file.

For the 2011 calendar year, 62,905 Direct Loan borrowers requested forbearance after defaulting on a loan. Of that number, we estimate that 25 percent (15,726 borrowers) will have exercised an option to orally acknowledge the debt and agree to repay the debt. On average, we estimate that it would take a borrower 0.17 hours (10 minutes) per oral acknowledgment to listen to the list of terms and conditions of the forbearance as they are reviewed with the borrower. The burden associated with the completion of the General Forbearance Request form, OMB 1845–0031, is estimated to average 0.2 hours (12 minutes). Therefore, the net reduction in burden to provide an oral acknowledgement rather than complete the form is the difference of the two or 0.03 hours (0.20 hours minus 0.17 hours or 2 minutes) per oral forbearance.

We estimate that burden will decrease by 472 hours (15,726 borrowers multiplied by 0.03 hours per oral forbearance) under OMB Control Number 1845–0119.

*Sections 682.405(b) and 685.211(f)—Reasonable and Affordable Loan Rehabilitation Agreement*

The final regulations will add new §§ 682.405(b)(1)(iii) and 685.211(f)(1)(i), requiring a guaranty agency and the Secretary, respectively, to first offer a reasonable and affordable loan rehabilitation payment amount on a defaulted loan as determined using the 15 percent formula (i.e., the amount equal to 15 percent of the amount by which the borrower's Adjusted Gross Income (AGI) exceeds 150 percent of the poverty guideline amount applicable to the borrower's family size and State, divided by 12), except that if this amount is less than $5, the borrower's monthly rehabilitation payment is $5. If the borrower does not provide the documentation required to confirm the calculated monthly payment under this formula to the guaranty agency or the Secretary, the rehabilitation agreement would be null and void.

In calendar year 2011, there were approximately 299,159 FFEL borrowers (192,029 borrowers whose FFEL program loans are held by lenders and 107,130 FFEL program borrowers whose loans are held by the Department) who requested and received a loan rehabilitation agreement for their defaulted loans. We estimate that of the 192,029 FFEL loans held by lenders, 66,283 loans are held by state guaranty agencies and 125,746 loans are held by not-for-profit guaranty agencies, with the remaining 107,130 loans (299,159 minus 192,029) held by the Department. In calendar year 2011, there were approximately 92,870 Direct Loan borrowers that requested and received a loan rehabilitation agreement for their defaulted loans.

Under these final regulations, we estimate that the 66,283 FFEL borrowers whose loans are held by state guaranty agencies will request rehabilitation of their defaulted loans using the 15 percent formula and submit the required documentation. We estimate that on average each borrower will take 0.33 hours (20 minutes) to gather, copy and submit the required documentation. We estimate that burden will increase by 21,873 hours (66,283 borrowers submitting documentation multiplied by 0.33 hours per loan rehabilitation request) under OMB Control Number 1845–0020.

Under these final regulations, we estimate that the 125,746 FFEL borrowers whose loans are held by not-for-profit guaranty agencies will request

rehabilitation of their defaulted loans using the 15 percent formula and submitting the required documentation to confirm the monthly repayment amount. We estimate that on average each borrower will take 0.33 hours (20 minutes) to gather, copy and submit the required documentation. We estimate that burden will increase by 41,496 hours (125,746 borrowers submitting documentation verifying IBR calculation multiplied by 0.33 hours per loan rehabilitation request) under OMB Control Number 1845–0020.

Under these final regulations, we estimate that the 107,130 FFEL borrowers whose loans are held by the Department will request rehabilitation of their defaulted loans using the 15 percent formula and submitting the required documentation to confirm the monthly repayment amount. We estimate that on average each borrower will take 0.33 hours (20 minutes) to gather, copy and submit the required documentation. We estimate that burden will increase by 35,353 hours (107,130 borrowers submitting documentation verifying the calculation multiplied by 0.33 hours per loan rehabilitation request) under OMB Control Number 1845–0020.

Under these final regulations, we estimate that the 92,870 Direct Loan borrowers whose loans are held by the Department will request rehabilitation of their defaulted loans using the 15 percent formula and submitting the required documentation to confirm the monthly repayment amount. We estimate that on average each borrower will take 0.33 hours (20 minutes) to collect, copy and submit the required documentation. We estimate that burden will increase by 30,647 hours (92,870 borrowers submitting documentation verifying the 15 percent formula calculation multiplied by 0.33 hours per loan rehabilitation request) under OMB Control Number 1845–0119.

We estimate that to review the supporting documentation submitted, it would take the guaranty agency on average 0.17 hours (10 minutes) to review the supporting documentation from the borrower. Under these final regulations, we estimate that burden will increase by 23,645 hours (192,029 borrowers requesting loan rehabilitation multiplied by 0.17 hours per document review) under OMB Control Number 1845–0020.

Sections 682.405(b)(1)(vii) and 685.211(f)(3) will require a guaranty agency and the Secretary to recalculate the borrower's rehabilitation payment amount if the borrower objects to the payment amount contained in the written repayment agreement that the guaranty agency or the Secretary sent to the borrower based on the 15 percent formula calculation.

Of the 299,159 FFEL borrowers in calendar year 2011 who requested rehabilitation of their defaulted loans, we estimate that 12 percent or 35,899 borrowers will raise an objection to the initial determination of the reasonable and affordable monthly payment amount by the guaranty agency or the Secretary. We estimate that each objection will entail a phone conversation or email that would span on average 0.17 hours (10 minutes). This will increase burden to the borrowers for a total of 6,103 hours (35,899 borrowers objecting to the initial determination of the reasonable and affordable payment amount multiplied by 0.17 hours per loan rehabilitation request) under OMB Control Number 1845–0020.

Of the 92,870 Direct Loan borrowers in calendar year 2011 who requested loan rehabilitation of their defaulted loans, we estimate that 11,144 Direct Loan borrowers will raise an objection to the initial determination of the reasonable and affordable monthly payment amount. We estimate that each objection will entail a phone conversation or email that would span on average 0.17 hours (10 minutes). This would increase burden to the borrowers for a total of 1,894 hours (11,144 borrowers objecting to the initial determination of the reasonable and affordable payment amount multiplied by 0.17 hours per loan rehabilitation request) under OMB Control Number 1845–0119.

Sections 682.405(b)(1)(vii) and 685.211(f)(5) will require a borrower who objects to the monthly repayment amount contained in the written repayment agreement based on the 15 percent formula to provide the guaranty agency or the Secretary the information needed to calculate a monthly payment amount by completing the reasonable and affordable rehabilitation payment form. If the borrower does not provide this information to the guaranty agency or the Secretary, no rehabilitation agreement would exist with the borrower, and the guaranty agency or the Secretary will not proceed with the rehabilitation.

Sections 682.405(b)(1)(x) and 685.211(f)(6) will require the Secretary or the guaranty agency, upon the borrower's request, to adjust the borrower's monthly rehabilitation payment due to a change in the borrower's financial circumstances. The borrower will be required to provide documentation supporting the request.

We estimate that 10 percent of the 299,159 FFEL borrowers who requested rehabilitation of their defaulted loans (29,916 FFEL borrowers, 19,203 of whom have FFEL program loans that are held by lenders and 10,713 of whom have FFEL program loans that are held by the Department) will have a change in their financial circumstances in the initial year the proposed regulation is implemented. We estimate that on average each borrower will take 0.33 hours (20 minutes) to collect, copy, and submit the required documentation. We estimate that burden will increase by 9,872 hours (29,916 borrowers with changes in financial circumstances multiplied by 0.33 hours per loan rehabilitation request) under OMB Control Number 1845–0020.

Of the 19,203 borrowers with FFEL loans held by lenders, 6,628 are held by public guaranty agencies and 12,575 are held by not-for-profit guaranty agencies. Under these final regulations, we estimate 6,628 FFEL borrowers whose loans are held by public guaranty agencies will have a change in their financial circumstances in the initial year the proposed regulation is implemented. We estimate that for each request submitted it will take on average 0.5 hours (30 minutes) for the guaranty agency to review and process the request. Under these final regulations, we estimate that burden will increase by 3,314 hours (6,628 borrowers requesting loan rehabilitation multiplied 0.5 hours per loan rehabilitation request equals 3,314 hours) under OMB Control Number 1845–0020.

Under these final regulations, we estimate that 12,575 FFEL borrowers whose loans are held by not-for-profit guaranty agencies will request a change in their reasonable and affordable payment amount due to changed financial circumstances in the initial year the final regulation is implemented. We estimate that for each request submitted it will take on average 0.5 hours (30 minutes) for the guaranty agency to review and process the request for a change in the payment amount. Under these final regulations, we estimate that burden will increase by 6,288 hours (12,575 borrowers requesting a change in the loan rehabilitation payment amount multiplied by 0.5 hours per request) under OMB Control Number 1845–0020.

We estimate that 10 percent of Direct Loan borrowers who are rehabilitating their defaulted loans (9,287 Direct Loan borrowers) will request a change in the reasonable and affordable payment amount due to a change in their financial circumstances in the initial year the final regulation is

implemented. We estimate that on average each borrower will take 0.33 hours (20 minutes) to collect, copy, and submit the required documentation. We estimate that burden will increase by 3,065 hours (9,287 borrowers requesting a change in the reasonable and affordable payment amount multiplied by 0.33 hours per payment change request equals 3,065 hours) under OMB Control Number 1845–0119.

*Sections 682.405(a) and 685.211(f)—Suspension of Administrative Wage Garnishment for Borrowers Rehabilitating Defaulted Loans*

The final regulations will add new §§ 682.405(a)(3)(i) and 685.211(f)(12)(i) to the FFEL and Direct Loan program regulations requiring a guaranty agency or the Secretary, respectively, to suspend collecting on a defaulted loan through Administrative Wage Garnishment (AWG) after the borrower makes five qualifying payments under a loan rehabilitation agreement. The guaranty agency or the Secretary will not be permitted to suspend AWG prior to the fifth payment (unless otherwise required to do so), and, after the fifth payment, the borrower will have the option to request that the guaranty agency or the Secretary continue collecting on the loan through AWG while the borrower makes voluntary payments under the rehabilitation agreement.

Under § 682.405(a)(3)(ii), we estimate that state guaranty agencies will have 663 FFEL borrowers from whom they will be collecting payments through AWG while the borrower is also making voluntary repayments to rehabilitate the loan. After the borrower has made five qualifying voluntary loan payments (in addition to the AWG payments) the holder would suspend AWG. We estimate that on average each suspension of AWG would take one hour (60 minutes). We estimate that burden would increase by 663 hours (663 borrower requests multiplied by one hour per AWG suspension equals 663 hours) under OMB Control Number 1845–0020.

Under § 682.405(a)(3)(ii), we estimate that not-for-profit guaranty agencies will have 1,257 FFEL borrowers from whom they will be collecting payments using AWG while the borrower is also making voluntary repayments to rehabilitate the loan. After the borrower has made five qualifying voluntary loan payments (in addition to the AWG payments) the holder would suspend AWG. We estimate that on average each suspension of AWG would take one hour (60 minutes). We estimate that burden would increase by 1,257 hours (1,257 borrower requests multiplied by one hour per AWG suspension equals 1,257 hours) under OMB Control Number 1845–0020.

Any burden under § 685.211(f)(12)(i) is attributable to the Department and therefore not a part of this burden assessment of affected entities.

Collectively, the changes in § 682.405(a) and (b) will increase burden by 149,864 hours in OMB Control Number 1845–0020.

Collectively, the changes in § 685.211(f) will increase burden by 35,606 hours in OMB Control Number 1845–0119.

*Sections 674.33(g), 682.402(d), and 685.214—Closed School Discharge*

The final regulations at §§ 674.33(a)(4)(i)(B), 682.402(d)(1), and 685.214(c)(1)(iii) will extend, for purposes of the closed school discharge, the current 90-day period to 120-days for students who leave before a school closes and add examples of the types of exceptional circumstances under which the Department may extend the 120-day window.

During the 2011 calendar year, no Perkins Loan borrowers received closed school loan discharges. We estimate that 15 Perkins Loan borrowers submitted applications for closed school discharges. We estimate that the average burden per response is 0.5 hours (30 minutes) for each loan discharge application and that by expanding the period from 90 days to 120 days prior to school closure for students who had withdrawn to apply for a closed school loan discharge will increase the number of applicants by 20 percent. As a result there will be an estimated 18 applications under the final regulation for a total increase in burden of 2 hours (18 borrowers applying for loan discharge multiplied by 0.5 hours per application minus 15 borrowers applying for loan discharge under current regulations multiplied by 0.5 hours per application) under OMB Control Number 1845–0015.

During the 2011 calendar year, 163 FFEL borrowers received closed school loan discharges. We estimate that 230 FFEL borrowers submitted applications for discharge. We estimate that the average burden per response is 0.5 hours (30 minutes) for each loan discharge application and that by expanding the period from 90 days to 120 days prior to school closure for students who had withdrawn to apply for a closed school loan discharge will increase the number of applicants by 20 percent. As a result there will be 276 applications under the final regulation for a total increase in burden of 23 hours (276 borrowers applying for loan discharge multiplied by 0.5 hours per application minus 230 borrowers applying for loan discharge under current regulations multiplied by 0.5 hours per application) under OMB Control Number 1845–0015.

During the 2011 calendar year, 128 Direct Loan borrowers received closed school loan discharges. We estimate that 295 Direct Loan borrowers submitted applications for discharge. We estimate that the average burden per response is 0.5 hours (30 minutes) for each loan discharge application and that by expanding the period from 90 days to 120 days prior to school closure for students who had withdrawn to apply for a closed school loan discharge will increase the number of applicants by 20 percent, thus totaling 354 applications under the final regulation for a total increase in burden of 29 hours (354 borrowers applying for loan discharge multiplied by 0.5 hours per application minus 295 borrowers applying for loan discharge under current regulations multiplied by 0.5 hours per application) under OMB Control Number 1845–0015.

Collectively, the total increase in burden is 54 hours under OMB Control Number 1845–0015. The changes associated with the elongation of the period prior to school closure from 90 days to 120 days for students who had withdrawn to apply for a closed school loan discharge is non-substantive and as such, we will submit a Form 83–C to OMB to make this change.

*Sections 674.19, 682.610, and 685.309—School Enrollment Status Reporting Requirements*

For the Federal Perkins Loan program, the final regulations would add a new § 674.19(f) with the heading ''enrollment reporting process.'' Section 674.19(f)(1) will provide that, upon receipt of an enrollment report from the Secretary, an institution must update all information included in the report and return the report to the Secretary in the manner and format prescribed by the Secretary and within the timeframe prescribed by the Secretary. Section 674.19(f)(2) will provide that, unless it expects to submit its subsequent updated enrollment report to the Secretary within the next 60 days, an institution must notify the Secretary within 30 days after: (1) The date the school discovers that a loan under title IV of the HEA was made to a student who was enrolled or accepted for enrollment at the institution, and the student has ceased to be enrolled on at least a half-time basis, or has failed to enroll on at least a half-time basis for the period for which the loan was

intended; or (2) the date the school discovers that a student who is enrolled at the institution and who received a loan under title IV of the HEA has changed his or her permanent address. Because the Secretary already receives enrollment information on Federal Perkins Loan borrowers who also have a FFEL loan or a Direct Loan, the additional burden associated with sending enrollment reports to institutions for the Federal Perkins Loan Program is only associated with those Federal Perkins Loan borrowers whose only loan received under title IV of the HEA is a Federal Perkins Loan and who are enrolled on at least a half-time basis or who had recently changed enrollment status.

In the 2011 calendar year, there were 2,070,514 Federal Perkins Loan borrowers. Of the 2,070,514 Federal Perkins Loan borrowers, 240,959 borrowers have a Federal Perkins Loan as the only loan received under title IV of the HEA. Of the 240,959 borrowers, 53 percent (127,708 borrowers) were enrolled at least half-time or had recently changed enrollment status. The Secretary will be sending enrollment reports to each of the institutions approximately every 60 days or 6 reports per year. We estimate that on average the completion and submission of an enrollment report will take 0.05 hours (3 minutes) per borrower. Burden will increase by 38,312 hours (127,708 borrowers multiplied by 0.05 hours per borrower multiplied by 6 reports per year) under OMB Control Number 1845–0019.

For the 2011 calendar year 51 percent of the Federal Perkins loan borrowers or 65,131 affected borrowers were at public institutions, therefore we estimate that burden will increase for public institutions by 19,539 hours (38,312 hours multiplied by 0.51) under OMB 1845–0019.

For the 2011 calendar year 45 percent of the Federal Perkins loan borrowers or 57,469 affected borrowers were at private not-for-profit institutions, therefore we estimate that burden will increase for private not-for-profit institutions by 17,240 hours (38,312 hours multiplied by 0.45) under OMB 1845–0019.

For the 2011 calendar year 4 percent of the Federal Perkins loan borrowers or 5,108 affected borrowers were at proprietary institutions, therefore we estimate that burden will increase for proprietary institutions by 1,533 hours (38,312 hours multiplied by 0.04) under OMB 1845–0019.

Collectively, the final regulatory changes to § 674.19 will increase burden by 38,312 hours for 127,708 affected borrowers under OMB 1845–0019.

For the FFEL Program, the final regulations will replace the term ''student status confirmation reports'' in § 682.610(c) with the term ''enrollment reporting process,'' and will revise § 682.610(c)(1) to provide that upon receipt of an enrollment report from the Secretary, a school must update all information included in the report and return the report to the Secretary in the manner and format prescribed by the Secretary and within the timeframe specified by the Secretary. Institutions currently participating in the FFEL or Direct Loan programs will continue to report enrollment to the Secretary and the lender. Because the only change regarding the FFEL Program reporting is in the definition of the reporting requirement, there is no change in burden for institutions participating in the FFEL and Direct Loan programs.

*Section 674.34—Deferment of Repayment—Federal Perkins Loans*

The final regulations in § 674.34(f)(1) will require schools that participate in the Perkins Loan Program to use the same eligibility criteria to define an eligible graduate fellowship program and to establish the eligibility of a borrower for a graduate fellowship deferment that lenders and the Department use in the FFEL and Direct Loan programs, respectively. The final regulations will require that a borrower provide the institution with a statement from an authorized official of the borrower's graduate fellowship program certifying: (1) That the borrower holds at least a bachelor's degree; and (2) the borrower's anticipated completion date of the program. In calendar year 2011 there were 1,104 Perkins borrowers who applied for a graduate fellowship deferment. We estimate that on average it will take the borrower 0.25 hours (15 minutes) to obtain the certification from an authorized official of the graduate fellowship program and to complete and submit the Perkins Loan deferment form multiplied by an estimated 1,104 deferment applications equals 276 hours of increased burden to borrowers under OMB Control Number 1845–0019.

For the 2011 calendar year 51 percent of the Federal Perkins Loan borrowers or 563 affected borrowers were at public institutions, therefore we estimate that burden will increase for authorizing officials at public institutions by 141 hours (1,104 applications multiplied by 0.51 multiplied by 0.25 hours per certification) under OMB 1845–0019.

For the 2011 calendar year 45 percent of the Federal Perkins Loan borrowers or 497 affected borrowers were at private not-for-profit institutions, therefore we estimate that burden will increase authorizing officials at for private not-for-profit institutions by 124 hours (1,104 applications multiplied by 0.45 multiplied by 0.25 hours per certification) under OMB 1845–0019.

For the 2011 calendar year 4 percent of the Federal Perkins Loan borrowers or 44 affected borrowers were at proprietary institutions, therefore we estimate that burden will increase for private not-for-profit institutions by 11 hours (1,104 applications multiplied by 0.04 multiplied by 0.25 hours per certification) under OMB 1845–0019.

Collectively, the final regulatory changes to § 674.34 will increase burden by 552 hours under OMB 1845–0019.

*Section 682.410(b)(9)(i)(T)(2)—Administrative Wage Garnishment (AWG)—Use of Third-Party Contractors*

The final regulations will also add a new § 682.410(b)(9)(i)(T) to the regulations, which specifies the functions that may be performed by a third-party servicer or collection contractor employed by the guaranty agency for services needed in the AWG process. The final regulations make clear that the guaranty agency may not delegate to any third party the decision to order withholding of an individual borrower's wages, and must create and retain records to demonstrate that each order issued has been individually authorized by an appropriate official of the guaranty agency. The final regulations also specify the manner by which a withholding order may be sent to employers and the permissible activities that may be performed by a third-party servicer or collection contractor employed by the guaranty agency with respect to withholding orders. Only an authorized official of the guaranty agency may determine that an individual withholding order is to be issued. The guarantor must record the official's determination for each order it issues by either including the official's signature on the order, or by retaining in the agency's records the identity of the approving official, the date of the approval, the amount or rate of the order, the name and address of the employer to whom the order was issued, and the debt for which the order was issued.

In calendar year 2011, we estimate there were 84,293 FFEL Program borrowers whose loans were held by state guaranty agencies and for which the guaranty agency had initiated AWG. We estimate that on average the guaranty agency will take 0.25 hours (15 minutes) to meet the recordkeeping requirements specified above. Total

burden hours will increase by 21,073 hours (84,293 multiplied by 0.25 hours) under OMB 1845–0020.

In calendar year 2011, we estimate there were 159,912 FFEL borrowers whose loans were held by not-for-profit guaranty agencies and for which the guaranty agency had initiated AWG. We estimate that on average the guaranty agency will take 0.25 hours (15 minutes) to meet the recordkeeping requirements specified above. Total burden hours will increase by 39,978 hours (159,912 multiplied by 0.25 hours) under OMB 1845–0020.

The final changes in § 682.410(b)(9)(i)(T)(*2*) will increase burden by 61,051 hours under OMB Control Number 1845–0020.

*Section 682.410(b)(9)(i)(H)—Administrative Wage Garnishment (AWG)—Borrower Hearing Requests*

The final regulations will also replace § 682.410(b)(9)(i)(L) of the FFEL Program regulations with § 682.410(b)(9)(i)(H) to provide that if a borrower's written request for a hearing is received by the guaranty agency after the 30th day following the date of the garnishment notice and a decision is not rendered within 60 days following receipt of the borrower's written request for a hearing, the guaranty agency must suspend the order beginning on the 61st day after the hearing request was received until a hearing is provided and a decision is rendered.

If a borrower does not request a hearing within the 30-day time limit, the guaranty agency must go forward with the AWG. However, if a borrower does eventually request a hearing, a guaranty agency would still be required to provide one in sufficient time to have a decision issued within 60 days of the request. The Department added a provision specifying that if this hearing is not provided and a decision issued within 60 days, then the agency must suspend the AWG order beginning on the 61st day until a decision is issued.

In calendar year 2011, we estimate there were 84,293 FFEL borrowers whose loans were held by state guaranty agencies and for which the agencies had initiated AWG. We estimate that 10 percent of these borrowers (8,429) will request a hearing and that in 10 percent of those cases (843) a decision will not be rendered until after 60 days following the receipt of the borrower's request. On average, we estimate that it will take one hour (60 minutes) to suspend an administrative wage garnishment order. The total increase in burden will be 843 hours (843 FFEL borrowers undergoing AWG who requested a hearing where a decision was not rendered until after 60 days following the receipt of the borrower's request multiplied by one hour per suspension) under OMB 1845–0020.

In calendar year 2011, we estimate there were 159,912 FFEL borrowers whose loans where held by not-for-profit guaranty agencies and for which the agencies had initiated AWG. We estimate that 10 percent of these borrowers (15,991) will request a hearing and that in 10 percent of those cases (1,599) a decision will not be rendered until after 60 days following the receipt of the borrower's request. On average, we estimate that it will take one hour (60 minutes) to suspend an administrative wage garnishment order. The total increase in burden will be 1,599 hours (1,599 FFEL borrowers undergoing AWG who requested a hearing where a decision was not rendered until after 60 days following the receipt of the borrower's request multiplied by one hour per suspension) under OMB 1845–0020.

Collectively, the final changes in § 682.410(b)(9)(i)(H) will increase burden by 2,442 hours in OMB Control Number 1845–0020.

*Section 682.410(b)(9)(i)(J)—Administrative Wage Garnishment (AWG)—Hearing Administration*

The final regulations will add new paragraph (b)(9)(i)(J) and will provide for the manner by which the hearing is administered and certain provisions relating to bringing forth additional evidence and continuances. Specifically, the final regulations will require that the hearing be conducted as an informal proceeding, require witnesses in an oral hearing to testify under oath or affirmation, and require maintenance of a summary record of the hearing. The final regulations will also allow the borrower to request a continuance to submit additional evidence.

In calendar year 2011, we estimate there were 84,293 FFEL borrowers whose loans where held by state guaranty agencies and for which the agencies had initiated AWG. We estimate that 10 percent of these borrowers (8,429) will request a hearing. We estimate that on average each summary record will take one hour (60 minutes). The total burden increase for this recordkeeping will be 8,429 hours (8,429 hearings multiplied by one hour per hearing) under OMB 1845–0020.

In calendar year 2011, we estimate there were 159,912 FFEL borrowers whose loans where held by not-for-profit guaranty agencies and for which the agencies had initiated AWG. We estimate that 10 percent of these borrowers (15,991) will request a hearing. We estimate that on average each summary record will take one hour (60 minutes). The total burden increase for this recordkeeping will be 15,991 hours (15,991 hearings multiplied by one hour per hearing) under OMB 1845–0020.

Collectively, the changes in § 682.410(b)(9)(i)(J) will increase burden by 24,420 hours in OMB Control Number 1845–0020.

*Section 682.410(b)(9)(i)(Q)—Administrative Wage Garnishment (AWG)—Recent Reemployment After Involuntary Unemployment*

Section 682.410(b)(9)(i)(Q) will clarify that a borrower who wishes to object to AWG on the basis that he or she is not subject to garnishment because of recent reemployment after involuntary separation, bears the burden of raising and proving that claim.

In calendar year 2011, we estimate that there were 84,293 FFEL borrowers whose loans where held by state guaranty agencies and for which the agencies had initiated AWG. Of that number, we estimate that 8 percent (6,743) became unemployed involuntarily. Furthermore, we estimate that a sub-group of those who became unemployed involuntarily, 5 percent (337), gained subsequent reemployment. We estimate that the average amount of time for each borrower subject to AWG in this sub-group to provide documentation that supports their claim to not be subject to AWG due to their recent reemployment to be 0.5 hours. The increased burden to provide documentation that will support the borrower's claim that he not be subject to AWG due to recent reemployment is 169 hours (337 borrowers whose student loans were being collected by AWG, who became unemployed involuntarily, but subsequently gained reemployment multiplied by 0.5 hours per claim) under OMB 1845–0020.

In calendar year 2011, we estimate that there were 159,912 FFEL borrowers whose loans where held by not-for-profit guaranty agencies and for which the agencies had initiated AWG. Of that number, we estimate that 8 percent (12,793) became unemployed involuntarily. Furthermore, we estimate that a sub-group of those who became unemployed involuntarily, 5 percent (640), gained subsequent reemployment. We estimate that the average amount of time for each borrower subject to AWG in this sub-group to provide documentation that supports their claim to not be subject to AWG due to their recent reemployment to be 0.5 hours. The total amount of increased burden to

provide documentation that will support the borrower's claim that he not be subject to AWG due to recent reemployment is 320 hours (640 borrowers whose loans were being collected by AWG, who became employed involuntarily, but subsequently gained reemployment multiplied by 0.5 hours per claim) under OMB 1845–0020.

The final changes in § 682.410(b)(9)(i)(Q) will collectively increase burden by 489 hours in OMB Control Number 1845–0020.

Collectively, the final changes in all subparagraphs of § 682.410(b)(9) will increase burden by 88,402 hours in OMB Control Number 1845–0020.

*Repeal of Unnecessary FFEL Program Regulations*

The language in these final regulations removes provisions from 34 CFR part 682 that are no longer required as a result of the SAFRA Act included in the Health Care and Reconciliation Act of 2010. One of the provisions of the SAFRA Act was the termination, as of July 1, 2010, of the authority for lenders to make new loans under the FFEL Program. These final regulations will remove the FFEL provisions that are now unnecessary in light of this change and would also make technical and conforming changes. A number of the final technical and conforming changes in 34 CFR Part 682 are for clarity, others are due to the elimination of cross-references.

Typically, the results of negotiated rulemaking produce some regulatory changes that correspond to reporting or recordkeeping burden on affected entities such as borrowers, lenders, or guaranty agencies. The primary information collection associated with 34 CFR Part 682 is the currently approved OMB 1845–0020. Unlike other newly proposed regulations where the resultant final regulation would either increase or decrease burden as a result of the change in a regulation, this expansive effort to eliminate unneeded regulations includes more wholesale changes being made to 34 CFR Part 682. As a result, the entire history of burden associated with OMB 1845–0020 was examined. While the burden assessments for OMB 1845–0020 stretch back over 13 years, the necessary level of detail does not exist to disaggregate the amount of the currently approved amount of burden in this collection into its corresponding subsections of 34 CFR Part 682.

Therefore, a new methodology to calculate burden is required. We are able to establish that there are 38 subsections of 34 CFR Part 682 that have burden under OMB 1845–0020. We divided the total of the currently approved burden hours of 12,352,197 hours by the 38 affected subsections which on average yields 325,058 hours per affected subsection.

Each of the subsections listed below will use this number of burden hours as a starting point. The final changes as provided below explain the burden impact.

The specific number of respondents from the affected entities is similarly unavailable, so we have established a percentage based on the number of borrowers per loan type to distribute the number of respondents across the affected entities.

*Section 682.102—Repaying a Loan*

The final regulations will amend the section heading, remove § 682.102(a) through (d), which describe the application process for Stafford, PLUS, and Consolidation loans, and redesignate the paragraphs in current § 682.102(e), which describes the loan repayment process, as § 682.102(a)–(g).

These final changes will not alter the prior burden assessment of 325,058 hours under OMB Control Number 1845–0020.

*Section 682.200—Definitions—Lender*

The final regulations will remove the provisions of current § 682.601(a)(3), (a)(5), and (a)(7), and place these provisions into paragraph (8) of the definition of ''Lender'' in § 682.200(b).

These final changes will not alter the prior burden assessment of 325,058 hours under OMB Control Number 1845–0020.

*Section 682.205—Disclosure Requirements for Lenders*

The final regulations will remove § 682.205(a) (the initial disclosure statement), (b) (statement of borrower rights and responsibilities), (g) (plain language disclosure), and (i) (separate disclosure for Consolidation loans) from the FFEL Program regulations and renumber the remaining provisions. The remaining provisions include providing repayment information, providing required disclosures during the repayment period, and providing required disclosures for borrowers having difficulty making payments.

The final changes will decrease the required burden by 162,529 hours, and therefore the current burden hours will decrease from 325,058 hours to 162,529 hours under OMB Control Number 1845–0020.

*Section 682.206—Due Diligence in Making a Loan*

The final regulations will remove § 682.206 from the FFEL regulations. The SAFRA Act eliminated the authority to make new FFEL Program loans, including FFEL Consolidation loans. As a result, the requirements governing the making of new FFEL Program loans are no longer needed and the previous burden associated with the making of a loan by a lender will be removed.

The final change will remove all of the prior assessment of 325,058 hours of burden associated under OMB Control Number 1845–0020, and therefore burden will decrease by 325,058 hours for a total of 0 hours.

*Section 682.208—Due Diligence in Servicing a Loan*

The final regulations will replace the term ''national credit bureau(s)'' with ''nationwide consumer reporting agency(ies)'' to more accurately reflect the reporting requirements.

These final changes will not alter the prior burden assessment of 325,058 hours under OMB Control Number 1845–0020.

*Section 682.209—Repayment of a Loan*

The final regulations will amend § 682.209(a)(3)(i) by adding a new paragraph that specifies that borrowers with fixed interest rates on their Stafford loans enter repayment on those loans the day after six months following the date the borrower was no longer enrolled on at least a half-time basis. The final regulations will remove current § 682.209(e) through (g) and (j) from the regulations and re-designate the remaining paragraphs as paragraphs (e)-(g). Redesignated § 682.209(e) (current paragraph (h)) will be amended to specify that a FFEL Consolidation loan borrower repaying under the IBR plan may make a scheduled monthly payment of less than the interest that accrues on the loan.

The final changes will decrease the burden by 65,012 hours, and therefore the current burden assessment will decrease from 325,058 to 260,046 hours under OMB Control Number 1845–0020.

*Section 682.210—Deferment*

The final regulations will amend § 682.210(a)(4) of the regulations to provide that a borrower's representative may request a military service deferment on behalf of the borrower. In § 682.210(b), the introductory language in paragraphs (b)(1) through (6) of § 682.210 was revised to identify the cohort of borrowers to which each paragraph applies. Throughout

§ 682.210(b) cross-references were added to the eligibility criteria that are applicable to deferments available to these borrowers. The final regulations also amend § 682.210(s)(2) by removing the exception clause at the end of the provision, and amend § 682.210(u)(5) by replacing the words ''military active'' with ''post-active''.

These final changes will not alter the prior burden assessment of 325,058 hours under OMB Control Number 1845–0020.

*Section 682.211—Forbearance*

Substantive changes in this section have been identified earlier which added 9,446 hours of burden to OMB Control Number 1845–0020. There were no further changes to this section that will alter the prior burden assessment of 325,058 hours under OMB Control Number 1845–0020.

Collectively, the final changes will increase the burden assessment from 325,058 by 9,446 hours (as identified earlier) for a total of 334,504 hours under OMB Control Number 1845–0020.

*Section 682.212—Prohibited Transactions*

There is no change to the current language in this section of the regulations, however the current burden referenced in OMB Control Number 1845–0020 is incorrectly calculated.

This section primarily defines ''prohibited transactions,'' but does not impose recordkeeping or reporting requirements upon entities and thus does not impose burden. Therefore, these final regulations remove the 325,058 hours of burden that was previously incorrectly attributed to this section of the regulations. While subsection 34 CFR 682.212(h) provides that an institution, at its option, may make available a list of recommended or suggested lenders, the burden associated with that reporting is accounted for in §§ 601.10 and 668.14.

We removed the prior burden assessment of 325,058 hours under OMB Control Number 1845–0020, and therefore burden will decrease by 325,058 hours for a total of 0 hours.

*Section 682.214—Compliance With Equal Credit Opportunity Requirements*

The final regulations will remove § 682.214 from the FFEL regulations. The SAFRA Act ended the making of new FFEL loans and therefore these requirements can be eliminated from the FFEL regulations.

The change in the final regulation will remove the prior burden assessment of 325,058 hours under OMB Control Number 1845–0020, and therefore burden will decrease by 325,058 hours for a total of 0 hours.

*Section 682.216—Teacher Loan Forgiveness Program*

The final regulations provide for minor language changes.

These changes in the final regulations will not alter the prior burden assessment of 325,058 hours under OMB Control Number 1845–0020.

*Section 682.301—Eligibility of Borrowers for Interest Benefits on Stafford and Consolidation Loans*

The final regulations will remove § 682.301(c) from the regulations. The SAFRA Act ended the making of new FFEL Program loans and this provision related to determining borrower eligibility for the interest subsidy on new loans would be eliminated.

The change in the final regulations will remove the prior burden assessment of 325,058 hours under OMB Control Number 1845–0020, and therefore burden would decrease by 325,058 hours for a total of 0 hours under this section.

*Section 682.305—Procedures for Payment of Interest Benefits and Special Allowance and Collection of Origination and Loan Fees*

Section 682.305(c)(1)(ii) specifies that, regardless of the dollar volume of loans originated or held, a school lender or an eligible lender serving as trustee for a school or school-affiliated organization originating FFEL Program loans as a lender must submit an independent compliance audit to the Department each year. The final regulations will remove the reference to FFEL lenders originating loans. The final regulations will also remove the language specifying that a school and lender serving as a trustee for a school must submit an independent compliance audit to the Department each year.

The number of school lenders or lenders serving as a trustee on behalf of a school or a school affiliated organization whose purpose is to originate loans for which the final regulations will provide relief is so small as to not be substantive. As a result, these final changes will not alter the prior burden assessment of 325,058 hours under OMB Control Number 1845–0020.

*Section 682.401—Basic Program Agreement*

The final regulations will remove from § 682.401 language that addresses new loan originations, the process supporting loan origination, and a guaranty agency's efforts to secure new loan volume. These provisions can be eliminated from the FFEL Program regulations because no new FFEL loans are being made. The remaining provisions proposed for elimination relate to school eligibility to participate in a guaranty agency's program and the authority of an agency to limit, suspend, or terminate a school from its program. For purposes of new loans, schools now participate only in the Direct Loan Program. Any future actions to limit, suspend, or terminate a school's participation in the student loan programs would be undertaken by the Department under 34 CFR part 668, subpart G. Therefore, § 682.401(b)(6) can also be eliminated from the FFEL Program regulations.

The final changes will decrease the burden related to FFEL processes by 32,506 hours, and therefore the current burden hours will decrease from 325,058 hours by 32,506 hours to 292,552 hours under OMB Control Number 1845–0020.

*Section 682.402—Death, Disability, Closed School, False Certification, Unpaid Refunds, and Bankruptcy Payments*

Substantive changes in this section have been identified earlier under OMB 1845–0015. There were no further changes to this section that impacted the burden under OMB 1845–0020.

As a result, the prior burden assessment of 325,058 hours under OMB Control Number 1845–0020 will not be altered.

*Section 682.404—Federal rEinsurance Agreement*

The final regulations will make conforming language changes required due to the elimination of previous cross-references or obsolete requirements.

These final changes will not alter the prior burden assessment of 325,058 hours under OMB Control Number 1845–0020.

*Section 682.405—Loan Rehabilitation Agreement*

Substantive changes in this section have been identified earlier. There were no further changes to this section.

The substantive changes would be in addition to the previous burden assessment of 325,058 hours under OMB Control Number 1845–0020 and the earlier assessment increases burden by 135,359 hours in OMB 1845–0020 for a total burden of 460,417 hours.

*Section 682.406—Conditions for Claim Payments From the Federal Fund and for Reinsurance Coverage*

The final regulations will make a minor wording change due to the elimination of previous cross-references and add an ending date coinciding with the implementation of the SAFRA Act, which ended the making of new FFEL Program loans.

These final changes will not alter the prior burden assessment of 325,058 hours under OMB Control Number 1845–0020.

*Section 682.409—Mandatory Assignment by Guaranty Agencies of Defaulted Loans to the Secretary*

The final regulations will make no changes to this section of the regulations.

These final regulations will not alter the prior burden assessment of 325,058 hours under OMB Control Number 1845–0020.

*Section 682.410—Fiscal, Administrative, and Enforcement Requirements*

Apart from the earlier discussion of the changes made to the administrative wage garnishment provisions in this section of the regulations, the final regulations will only make minor wording changes to correct cross-references and delete obsolete references.

Substantive changes in this section have been identified earlier. There are no further changes to this section. These final changes will not alter the prior burden assessment of 325,058 hours under OMB Control Number 1845–0020 and the earlier assessment that increased burden by 88,402 hours in OMB 1845–0020 for a total of 413,460 hours.

*Section 682.411—Lender Due Diligence in Collecting Guaranty Agency Loans*

The final regulations will make a minor wording change.

These final changes will not alter the prior burden assessment of 325,058 hours under OMB Control Number 1845–0020.

*Section 682.412—Consequences of the Failure of a Borrower or Student To Establish Eligibility*

The final regulations will make a minor wording change.

These final changes will not alter the prior burden assessment of 325,058 hours under OMB Control Number 1845–0020.

*Section 682.414—Records, Reports, and Inspection Requirements for Guaranty Agency Programs*

The final regulations will make minor wording changes. One of the minor wording changes will eliminate a reporting category from annual guaranty agency reporting requirement. Under § 682.414, annually, for each State in which it operates, a guaranty agency report of the total guaranteed loan volume, default volume, and default rate does not have to be categorized by schools for all loans guaranteed after December 31, 1980. We estimate that this reduction in reporting categories will decrease the previous burden assessment by 16,253 hours, and therefore the current burden of 325,058 would decrease to 308,805 hours under OMB Control Number 1845–0020.

*Section 682.417—Determination of Federal Funds or Assets To Be Returned*

The final regulations make no changes to this section of the regulations. These changes in the final regulations will not alter the prior burden assessment of 325,058 hours under OMB Control Number 1845–0020.

*Section 682.418—Prohibited Uses of the Assets of the Operating Fund During Periods in Which the Operating Fund Contains Transferred Funds Owed to the Federal Fund*

The final regulations will remove § 682.418 from the FFEL regulations. The final change will remove the prior burden assessment of 325,058 hours under OMB Control Number 1845–0020, and therefore burden will be decreased by 325,058 hours for a total of 0 hours based on the elimination of the prior FFEL requirements.

*Section 682.421—Funds Transferred From the Federal Fund to the Operating Fund by a Guaranty Agency*

The final regulations will remove § 682.421 from the FFEL regulations. The final change will remove the prior burden assessment of 325,058 hours under OMB Control Number 1845–0020, and therefore burden will decrease by 325,058 hours for a total of 0 hours based on the elimination of the prior FFEL requirements.

*Section 682.507—Due Diligence in Collecting a Loan*

*Section 682.508—Assignment of a Loan*

*Section 682.511—Procedures for Filing a Claim*

*Section 682.515—Records, Reports, and Inspection Requirements for Federal GSL Program Lenders*

The final regulations will remove all of the regulations under Part 682, subpart E (§§ 682.500 through 682.515) and reserve the subpart. The final regulations will also remove FISL-related Appendix C to part 682 from the regulations.

The change in the final regulations will remove the prior burden assessment of 1,300,232 hours under OMB Control Number 1845–0020, and therefore burden will decrease by 325,058 hours for each of these four sections and decrease burden by 1,300,232 hours for a total of 0 hours based on the elimination of the prior FFEL requirements.

*Section 682.602—Rules for a School or School-Affiliated Organization That Makes or Originates Loans Through an Eligible Lender Trustee*

The final regulations will remove § 682.602 from the FFEL regulations. The final change will remove the prior burden assessment of 325,058 hours under OMB Control Number 1845–0020, and therefore burden will decrease by 325,058 hours for a total of 0 hours based on the elimination of the prior FFEL requirements.

*Section 682.603—Certification by a School That Participated in Connection With a Loan Application*

The final regulations will make conforming language changes required due to the elimination of a cross-reference and reorganization due to a deletion of previous requirements.

These final changes will not alter the prior burden assessment of 325,058 hours under OMB Control Number 1845–0020.

*Section 682.604—Processing the Borrower's Loan Proceeds and Counseling Borrowers (Required Exit Counseling for Borrowers)*

The final regulations will change the heading of § 682.604, remove current paragraph (a), remove and reserve paragraph (b), and remove paragraphs (c) through (f) and (h). The final regulations will also redesignate current paragraph (g) as paragraph (a). Newly redesignated § 682.604(a)(1) will be amended to include another option for providing exit counseling to a student

borrower who withdraws without the school's knowledge or fails to complete required exit counseling. In addition to the existing options described under ''Current Regulations,'' a school could also send written counseling materials to an email address provided by the student borrower. Newly redesignated § 682.604(a)(2) will be amended by replacing cross-references to current paragraph (a), which we are removing, with the substantive information contained in the cross-referenced provision that must be included in the counseling. A new paragraph (a)(5) will also be added to newly redesignated § 682.604(a) to clarify that: (1) A school's compliance with the Direct Loan Program exit counseling requirements in 34 CFR 685.304(b) satisfies the FFEL exit counseling requirements for student borrowers who received both FFEL and Direct Loan program loans for attendance at the school if the school provides the information required by § 682.604(a)(2)(i) and (a)(2)(ii); and (2) a student's completion of interactive exit counseling offered by the Secretary meets both the FFEL exit counseling requirements and the Direct Loan exit counseling requirements in 34 CFR 685.304(b).

The changes in the final regulations will decrease the previous burden assessment of 325,058 hours by 211,288 hours, and therefore the current burden of 325,058 hours will decrease to 113,770 hours under OMB Control Number 1845–0020 because the burden associated with new FFEL Program loans will be eliminated.

*Section 682.605—Determining the Date of a Student's Withdrawal*

The final regulations will not make any changes to this section. These final regulations will not alter the prior burden assessment of 325,058 hours under OMB Control Number 1845–0020.

*Section 682.610—Administrative and Fiscal Requirements for Schools That Participated*

Apart from the earlier discussion of the changes made to this section, the final regulations will only make minor wording changes.

These final changes will not alter the prior burden assessment of 325,058 hours under OMB Control Number 1845–0020.

*Section 682.711—Reinstatement After Termination*

The final regulations will remove the language regarding the loss of a school lender's participation upon the loss of the school's eligibility to participate in the Title IV, Federal student financial aid programs.

These final changes will not alter the prior burden assessment of 325,058 hours under OMB Control Number 1845–0020.

*Section 682.712—Disqualification Review of Limitation, Suspension, and Termination Actions Taken by Guarantee Agencies Against Lenders*

The final regulations will remove a cross-reference to a section proposed for deletion. These final changes will not alter the prior burden assessment of 325,058 hours under OMB Control Number 1845–0020.

*Section 682.713—Disqualification Review of Limitation, Suspension, and Termination Actions Taken by Guaranty Agencies Against a School*

The final regulations will remove § 682.713 from the FFEL Program regulations. The change in the final regulations will remove the prior burden assessment of 325,058 hours under OMB Control Number 1845–0020, therefore burden will decrease by 325,058 hours for a total of 0 hours based upon the elimination of the prior FFEL requirements.

Consistent with the discussion above, the following chart describes the sections of the final regulations involving information collections, the information being collected, and the collections that the Department will submit to the Office of Management and Budget for approval and public comment under the Paperwork Reduction Act, and the estimated costs associated with the information collections. The monetized net savings from of the reduced burden on lender/guaranty agencies, institutions, and borrowers using wage data developed using BLS data, available at *http://www.bls.gov/ncs/ect/sp/ecsuphst.pdf,* is −$108,767,761 as shown in the chart below. This cost was based on an hourly rate of $24.61.

COLLECTION OF INFORMATION

| Regulatory section | Information collection | OMB Control No. and estimated change in burden | Estimated costs |
|---|---|---|---|
| § 682.211 Forbearance | These final regulations amend the current FFEL regulations to authorize a lender to grant forbearance to a borrower who is in default on a loan, but prior to a default claim payment based on the borrower's oral request. The lender must orally review with the borrower the terms and conditions of the forbearance and send a notice confirming the terms within 30 days of the oral agreement. | OMB 1845–0020 The Department estimates that the burden will increase by 9,446 hours. | $232,466. |
| § 685.205 Forbearance | These final regulations amend the current Direct Loan regulations to authorize the Secretary to grant forbearance to a borrower who is in default on a loan, but prior to a default claim payment based on the borrower's oral request. The Secretary must orally review with the borrower the terms and conditions of the forbearance and send a notice confirming the terms within 30 days of the oral agreement. | OMB 1845–0119 The Department estimates that the burden will decrease by 472 hours. | −$11,616. |

COLLECTION OF INFORMATION—Continued

| Regulatory section | Information collection | OMB Control No. and estimated change in burden | Estimated costs |
|---|---|---|---|
| § 682.405(b) Loan rehabilitation agreement. | The final regulations require the guaranty agency to base determinations of reasonable and affordable rehabilitation payment amounts of defaulted loans on information provided on an OMB-approved form, and if requested, supporting documentation. | OMB 1845–0020 ..... The Department estimates that the burden will increase by 149,864 hours. | $3,688,153. |
| § 685.211(f) Loan rehabilitation agreement. | The final regulations require the Secretary to base determinations of reasonable and affordable rehabilitation payment amounts of defaulted loans on information provided on an OMB-approved form, and if requested, supporting documentation. | OMB 1845–0119 ..... The Department estimates that the burden will increase by 35,606 hours. | $876,264. |
| § 674.33, § 682.402, § 685.214 Closed school discharge form. | The final regulations extend the current 90-day window to 120-days for students who leave before a school closes may apply for a discharge of a title IV, HEA loan. | OMB 1845–0015 ..... The Department estimates that the burden will increase by 54 hours. | $1,329. |
| § 674.19 School enrollment status reporting. | The final regulations add a new section requiring institutions that participate in the Federal Perkins Loan program to, upon receipt of an enrollment report from the Secretary, update all information included in the report, and return it to the Secretary in the manner and format and within the timeframe prescribed by the Secretary. | OMB 1845–0019 ..... The Department estimates that the burden will increase by 38,312 hours. | $942,858. |
| § 674.34 Deferment of repayment—Federal Perkins Loans. | The final regulations require schools that participate in the Perkins Loan Program to use the same eligibility criteria that FFEL lenders and the Department use to define an eligible graduate fellowship program and to establish the eligibility of a Perkins Loan borrower for a graduate fellowship deferment. | OMB 1845–0019 ..... The Department estimates that the burden will increase by 276 hours. | $13,585. |
| § 682.410 Fiscal, administrative and enforcement requirements. | The final regulations:<br>• Add a new section to specify the functions that may be performed by a third-party servicer or collection contractor employed by a guaranty agency (GA) for administrative wage garnishment (AWG) purposes;<br>• Replace a section of the regulations with a new section to provide that if a borrower's written request for a hearing is received by the GA after the 30th day following the date of the garnishment notice and a decision is not rendered within 60 days following receipt of a borrower's written request the GA must suspend the AWG order beginning on the 61st day after the request was received until the hearing is provided and a decision rendered;<br>• Provide for the manner by which the hearing is administered and certain provisions relating to bringing forth additional evidence and continuances; and<br>• Clarify that a borrower who wishes to object that they are not subject to garnishment because of recent reemployment after involuntary separation bears the burden of raising and proving the claim. | OMB 1845–0020 ..... The Department estimates that the burden will increase by 88,402 hours. | $2,175,573. |

COLLECTION OF INFORMATION—Continued

| Regulatory section | Information collection | OMB Control No. and estimated change in burden | Estimated costs |
|---|---|---|---|
| § 682.102 Obtaining and repaying a loan. | The final regulations:<br>• Amend the section heading;<br>• Remove the section of the regulations that describes the application process for FFEL loans; and<br>• Re-designates the paragraphs describing the loan repayment process. | OMB 1845–0020 .....<br>The Department estimates that the burden will remain 325,058 hours. | No Change. |
| § 682.200 Definitions—Lender ..... | The final regulations make a conforming change to the definition of "Lender" due to the elimination of § 682.601. | OMB 1845–0020 .....<br>The Department estimates that the burden will remain 325,058 hours. | No change. |
| § 682.205 Disclosure Requirements for Lenders. | The final regulations remove regulations governing required lender disclosures to borrowers that are provided when new loans are made.<br>The remaining provisions include providing repayment information, providing required disclosures during the repayment period, and providing required disclosures for borrowers having difficulty making payments. | OMB 1845–0020 .....<br>The Department estimates that the burden will decrease by 162,529 hours to 162,529 hours. | −$3,999,839. |
| § 682.206 Due Diligence in making a loan. | The final regulations remove § 682.206 from the FFEL regulations. The SAFRA Act eliminated the authority to make new FFEL Program loans, including FFEL consolidation loans. | OMB 1845–0020 .....<br>The Department estimates that the burden will decrease by 325,058 hours to 0 hours of burden. | −$7,999,677. |
| § 682.208 Due diligence in servicing a loan. | The final regulations replace the term "national credit bureau(s)" with "nationwide consumer reporting agency(ies)" to more accurately reflect the appropriate legal terms. | OMB 1845–0020 .....<br>The Department estimates that the burden will remain 325,058 hours. | No change. |
| § 682.209 Repayment of a loan ..... | The final regulations amend § 682.209(a)(3)(i) by adding a new paragraph which specifies that borrowers with fixed interest rates on their Stafford loans enter repayment on those loans the day after six months following the date the borrower was no longer enrolled on at least a half-time basis.<br>The final regulations remove current §§ 682.209(e)–(g) and (j) from the regulations and re-designate the remaining paragraphs as paragraphs (e)–(g).<br>Re-designated § 682.209(e) (current paragraph (h)) is amended to specify that a FFEL Consolidation loan borrower repaying under the income-based repayment plan may make a scheduled monthly payment of less than the interest that accrues on the loan. | OMB 1845–0020 .....<br>The Department estimates that the burden will decrease from 325,058 by 65,012 hours to 260,046 hours. | −$1,599,945. |
| § 682.210 Deferment ..... | The final regulations amend the deferment regulations to provide that a borrower's representative may request a military service deferment on behalf of the borrower.<br>In § 682.210(b), the introductory language is revised to identify the cohort of borrowers to which each paragraph applies.<br>Throughout § 682.210(b) cross-references are added to the eligibility criteria that are applicable to deferments available to these borrowers. The final regulations remove the exception clause at the end of the provision, and replace the words "military active" with the word "post-active". | OMB 1845–0020 .....<br>The Department estimates that the burden will remain 325,058 hours. | No change. |

COLLECTION OF INFORMATION—Continued

| Regulatory section | Information collection | OMB Control No. and estimated change in burden | Estimated costs |
|---|---|---|---|
| § 682.211 Forbearance | Substantive changes in this section have been identified earlier.<br>The additional amendments to the regulations allow a lender to grant forbearance to a borrower who is delinquent at the beginning of a period of non-mandatory authorized forbearance. | OMB 1845–0020<br>The Department estimates that the burden will remain 325,058 hours.<br>(NOTE: Other earlier changes increased burden by 9,446 hours for a total of 334,504 hours.) | No change. |
| § 682.212 Prohibited transactions | There is no change to the current language in this section of the regulations. However the current burden referenced in OMB Control Number 1845–0020 is incorrect. | OMB 1845–0020<br>The Department estimates that the burden will decrease by 325,058 hours to 0 hours of burden. | −7,999,677. |
| § 682.214 Compliance with equal credit opportunity requirements. | The final regulations remove § 682.214 from the FFEL regulations. The SAFRA Act ended the making of new FFEL loans and therefore these requirements can be eliminated from the FFEL regulations. | OMB 1845–0020<br>The Department estimates that the burden will decrease by 325,058 hours to 0 hours of burden. | −7,999,677. |
| § 682.216 Teacher loan forgiveness program. | The final regulations provide for minor language changes. | OMB 1845–0020<br>The Department estimates that the burden will remain 325,058 hours. | No change. |
| § 682.301 Eligibility of borrowers for interest benefits on Stafford and Consolidation Loans. | The final regulations remove § 682.301(c) from the regulations. The SAFRA Act ended the making of new FFEL loans and this provision related to determining borrower eligibility for the interest subsidy on new loans will be eliminated. | OMB 1845–0020<br>The Department estimates that the burden will decrease by 325,058 hours to 0 hours of burden. | −7,999,677. |
| § 682.305 Procedures for payment of interest benefits and special allowance and collection of origination and loan fees. | Section 682.305(c)(1)(ii) specifies that, regardless of the dollar volume of loans originated or held, a school lender or an eligible lender serving as trustee for a school or school-affiliated organization originating FFEL loans as a lender must submit an independent compliance audit to the Department each year. The final regulations will remove the reference to FFEL lenders originating loans. | OMB 1845–0020<br>The Department estimates that the burden will remain 325,058 hours. | No change. |
| § 682.401 Basic Program Agreement | The final regulations remove from § 682.401 language addressing new loan originations, the process for loan origination, and a guaranty agency's efforts to secure new loan volume. These provisions can be eliminated from the FFEL regulations because no new FFEL loans are being made.<br>The remaining provisions that are eliminated relate to school eligibility to participate in a guaranty agency's program and the authority of an agency to limit, suspend, or terminate a school from its program. For purposes of new loans, schools now participate only in the Direct Loan Program. Any future actions to limit, suspend, or terminate a school's participation in the student loan programs will be undertaken by the Department under 34 CFR part 668, subpart G. | OMB 1845–0020<br>The Department estimates that the burden of 325,058 hours will decrease by 32,506 to 292,552 hours. | −799,973. |
| § 682.402 Death, disability, closed school, false certification, unpaid refunds, and bankruptcy payments. | Substantive changes in this section have been identified earlier. There are no further changes to this section. | OMB 1845–0020<br>The Department estimates that the burden will remain 325,058 hours. | No change. |
| § 682.404 Federal reinsurance agreement. | The final regulations make conforming language changes required due to the elimination of previous cross references or obsolete requirements. | OMB 1845–0020<br>The Department estimates that the burden will remain 325,058 hours. | No change. |
| § 682.405 Loan rehabilitation agreement. | Substantive changes in this section have been identified earlier. There were no further changes to this section. | OMB 1845–0020<br>The Department estimates that the burden will remain 325,058 hours. | No change. |

COLLECTION OF INFORMATION—Continued

| Regulatory section | Information collection | OMB Control No. and estimated change in burden | Estimated costs |
|---|---|---|---|
| § 682.406 Conditions for claim payments from the Federal Fund and for reinsurance coverage. | The final regulations make a minor wording change due to the elimination of previous cross-references and add an ending date coinciding with the implementation of the SAFRA Act, which ended the making of new FFEL loans. | OMB 1845–0020 ..... The Department estimates that the burden will remain 325,058 hours. | No change. |
| § 682.409 Mandatory assignment by guaranty agencies of defaulted loans to the Secretary. | The final regulations make no changes to this section of the regulations. | OMB 1845–0020 ..... The Department estimates that the burden will remain 325,058 hours. | No change. |
| § 682.410 Fiscal, administrative, and enforcement requirements. | Apart from the earlier discussion of the changes made to the administrative wage garnishment provisions of this section of the regulations, the final regulations would only make minor wording changes to conform to cross reference changes and delete obsolete references. | OMB 1845–0020 ..... The Department estimates that the burden will remain 325,058 hours. (NOTE: Other earlier changes to the Administrative Wage Garnishment regulations increase burden by 88,402 hours for a total of 413,460 hours.) | No change. |
| § 682.411 Lender due diligence in collecting guaranty agency loans. | The final regulations make a minor wording change. | OMB 1845–0020 ..... The Department estimates that the burden will remain 325,058 hours. | No change. |
| § 682.412 Consequences of the failure of a borrower or student to establish eligibility. | The final regulations make a minor wording change. | OMB 1845–0020 ..... The Department estimates that the burden will remain 325,058 hours. | No change. |
| § 682.414 Records, reports, and inspection requirements for guaranty agency programs. | The final regulations make a minor wording change. | OMB 1845–0020 ..... The Department estimates that the burden will decrease from 325,058 hours by 16,253 hours for a total of 308,805 hours. | −$399,986. |
| § 682.417 Determination of Federal funds or assets to be returned. | The final regulations make a minor wording change. | OMB 1845–0020 ..... The Department estimates that the burden will remain 325,058 hours. | No change. |
| § 682.418 Prohibited uses of the assets of the Operating Fund during periods in which the Operating Fund contains transferred funds owed to the Federal Fund. | The final regulations remove § 682.418 from the FFEL regulations. | The Department estimates that the burden will decrease by 325,058 hours to 0 hours of burden.. | −$7,999,677. |
| § 682.421 Funds transferred from the Federal Fund to the Operating Fund by a guaranty agency. | The final regulations remove § 682.421 from the FFEL regulations. | OMB 1845–0020 ..... The Department estimates that the burden will decrease by 325,058 hours to 0 hours of burden. | −7,999,677. |
| § 682.507 Due diligence in collecting a loan. | The final regulations remove all of the regulations under subpart E (§§ 682.500 through 682.515) and reserve the subpart. | OMB 1845–0020 ..... The Department estimates that the burden will decrease by 325,058 hours to 0 hours of burden. | −7,999,677. |
| § 682.508 Assignment of a loan ..... | The final regulations remove all of the regulations under subpart E (§§ 682.500 through 682.515) and reserve the subpart. | OMB 1845–0020 ..... The Department estimates that the burden will decrease by 325,058 hours to 0 hours of burden. | −7,999,677. |
| § 682.511 Procedures for filing a claim | The final regulations remove all of the regulations under subpart E (§§ 682.500 through 682.515) and reserve the subpart. | OMB 1845–0020 ..... The Department estimates that the burden will decrease by 325,058 hours to 0 hours of burden. | −7,999,677. |
| § 682.515 Records, reports, and inspection requirements for Federal GSL program lenders. | The final regulations remove all of the regulations under subpart E (§§ 682.500 through 682.515) and reserve the subpart. | OMB 1845–0020 ..... The Department estimates that the burden will decrease by 325,058 hours to 0 hours of burden. | −7,999,677. |
| § 682.602 Rules for a school or school-affiliated organization that makes or originates loans through an eligible lender trustee. | The final regulations remove § 682.602 from the FFEL regulations. | OMB 1845–0020 ..... The Department estimates that the burden will decrease by 325,058 hours to 0 hours of burden. | −7,999,677. |
| § 682.603 Certification by a school that participated in connection with a loan application. | The final regulations make conforming language changes required due to the elimination of a cross reference and reorganization due to a deletion of previous requirements. | OMB 1845–0020 ..... The Department estimates that the burden will remain 325,058 hours. | No change. |

COLLECTION OF INFORMATION—Continued

| Regulatory section | Information collection | OMB Control No. and estimated change in burden | Estimated costs |
|---|---|---|---|
| § 682.604 Processing the borrower's loan proceeds and counseling borrowers (Required exit counseling for borrowers). | The final regulations remove, reserve, and redesignate paragraphs to illustrate the counseling requirements, specifically the exit counseling requirements. | OMB 1845–0020 ..... OMB 1845–0020 The Department estimates that the burden will decrease from 325,058 by 211,288 hours for a total of 113,770 hours. | −$5,199,798. |
| § 682.605 Determining the date of a student's withdrawal. | The Secretary is not changing the language in this section. | OMB 1845–0020 ..... The Department estimates that the burden will remain 325,058 hours. | No change. |
| § 682.610 Administrative and fiscal requirements for schools that participated. | The final regulations only make minor wording changes. | OMB 1845–0020 ..... The Department estimates that the burden will remain 325,058 hours. | No change. |
| § 682.711 Reinstatement after termination. | The final regulations remove the language regarding the loss of a school lender's participation upon the loss of the school's eligibility to participate in the Title IV, Federal student financial assistance programs. | OMB 1845–0020 ..... The Department estimates that the burden will remain 325,058 hours. | No change. |
| § 682.712 Disqualification review of limitation, suspension, and termination actions taken by guaranty agencies against lenders. | The final regulations remove a cross-reference to a section proposed for deletion. | OMB 1845–0020 ..... The Department estimates that the burden will remain 325,058 hours. | No change. |
| § 682.713 Disqualification review of limitation, suspension, and termination actions taken by guaranty agencies against a school. | The final regulations remove § 682.713 from the FFEL regulations. | OMB 1845–0020 ..... The Department estimates that the burden will decrease by 325,058 hours to 0 hours of burden. | −7,999,677. |

The total burden hours and change in burden hours associated with each OMB Control number affected by these final regulations follows:

| Control No. | Total burden hours | Change in burden hours |
|---|---|---|
| 1845–0015 ..... | 14,828 | +54 |
| 1845–0019 ..... | 6,247,152 | +38,864 |
| 1845–0020 ..... | 8,211,632 | −4,169,582 |
| 1845–0119 ..... | 35,606 | +36,078 |
| Total ..... | 14,509,690 | −4,094,586 |

*Assessment of Educational Impact*

In the NPRM we requested comments on whether the proposed regulations would require transmission of information that any other agency or authority of the United States gathers or makes available.

Based on the response to the NPRM and our review, we have determined that these final regulations do not require transmission of information that any other agency or authority of the United States gathers or makes available.

*Accessible Format:* Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

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You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department. (Catalog of Federal Domestic Assistance Numbers: 84.032 Federal Family Education Loan Program; 84.038 Federal Perkins Loan Program; 84.268 William D. Ford Federal Direct Loan Program)

**List of Subjects in 34 CFR Parts 668, 674, 682, and 685**

Administrative practice and procedure, Colleges and universities, Education, Loan programs—education, Reporting and recordkeeping requirements, Student aid, Vocational education.

Dated: October 23, 2013.

**Arne Duncan,**

*Secretary of Education.*

For the reasons discussed in the preamble, the Secretary amends parts 668, 674, 682, and 685 of title 34 of the Code of Federal Regulations as follows:

## PART 668—STUDENT ASSISTANCE GENERAL PROVISIONS

■ 1. The authority citation for part 668 continues to read as follows:

**Authority:** 20 U.S.C. 1001, 1002, 1003, 1070, 1085, 1088, 1091, 1092, 1094, 1099c, and 1099c–1, unless otherwise noted.

**§ 668.204 [Amended]**

■ 2. Section 668.204(c)(1)(i) is amended by removing the figure ''0.06015'' and adding, in its place, the figure ''0.0832''.

**§ 668.214 [Amended]**

■ 3. Section 668.214 is amended by:

■ A. In paragraph (a)(1), removing the figure ''0.06015'' and adding, in its place, the figure ''0.0832''.

■ B. In paragraph (d)(2), removing the words ''0.06015 or 0.0625'' and adding, in their place, the words ''0.0832 or 0.0625, as applicable''.

## PART 674—FEDERAL PERKINS LOAN PROGRAM

■ 4. The authority citation for part 674 continues to read as follows:

**Authority:** 20 U.S.C. 1070g, 1087aa–1087hh, unless otherwise noted.

■ 5. Section 674.2(b) is amended by revising the definition of ''Satisfactory repayment arrangement'' to read as follows:

**§ 674.2 Definitions.**

* * * * *

(b) * * *

*Satisfactory repayment arrangement:* (1) For purposes of regaining eligibility for grant, loan, or work assistance under title IV of the HEA, to the extent that the borrower is otherwise eligible, the making of six on-time, consecutive, voluntary, full monthly payments on a defaulted loan. ''On-time'' means a payment made within 20 days of the scheduled due date. A borrower may obtain the benefit of this paragraph with respect to renewed eligibility once.

(2) Voluntary payments are payments made directly by the borrower, and do not include payments obtained by income tax offset, garnishment, or income or asset execution.

(3) A borrower has not used the one opportunity to renew eligibility for title IV assistance if the borrower makes six consecutive, on-time, voluntary, full monthly payments under an agreement to rehabilitate a defaulted loan, but does not receive additional title IV assistance prior to defaulting on that loan again.

* * * * *

■ 6. Section 674.9 is amended by:

■ A. In paragraph (j)(1), removing the word ''those''.

■ B. Redesignating paragraph (k) as paragraph (l).

■ C. Adding a new paragraph (k).

The addition reads as follows:

**§ 674.9 Student eligibility.**

* * * * *

(k) In the case of a borrower who is in default on an FFEL Program or a Direct Loan Program loan, makes satisfactory repayment arrangements as defined in 34 CFR 682.200(b) or 685.102(b) on the defaulted loan, as determined by the loan holder; and

* * * * *

■ 7. Section 674.19 is amended by adding a new paragraph (f) to read as follows:

**§ 674.19 Fiscal procedures and records.**

* * * * *

(f) *Enrollment reporting process.* (1) Upon receipt of an enrollment report from the Secretary, an institution must update all information included in the report and return the report to the Secretary—

(i) In the manner and format prescribed by the Secretary; and

(ii) Within the timeframe specified by the Secretary.

(2) Unless it expects to submit its next updated enrollment report to the Secretary within the next 60 days, an institution must notify the Secretary within 30 days after the date the school discovers that—

(i) A loan under title IV of the HEA was made to a student who was enrolled or accepted for enrollment at the institution, and the student has ceased to be enrolled on at least a half-time basis or failed to enroll on at least a half-time basis for the period for which the loan was intended; or

(ii) A student who is enrolled at the institution and who received a loan under title IV of the HEA has changed his or her permanent address.

* * * * *

■ 8. Section 674.33 is amended by:

■ A. Revising paragraph (g)(4)(i)(B).

■ B. In paragraph (g)(8)(i), removing the figure ''90'' and adding, in its place, the figure ''120''.

The revision reads as follows:

**§ 674.33 Repayment.**

* * * * *

(g) * * *

(4) * * *

(i) * * *

(B) Did not complete the program of study at that school because the school closed while the student was enrolled, or the student withdrew from the school not more than 120 days before the school closed. The Secretary may extend the 120-day period if the Secretary determines that exceptional circumstances related to the school's closing justify an extension. Exceptional circumstances for this purpose may include, but are not limited to: the school's loss of accreditation; The school's discontinuation of the majority of its academic programs; action by the State to revoke the school's license to operate or award academic credentials in the State; or a finding by a State or Federal government agency that the school violated State or Federal law; and

* * * * *

■ 9. Section 674.34 is amended by:

■ A. In the introductory text of paragraph (e), removing the reference ''(e)(5)'' and adding, in its place, the reference ''(e)(4)'', each time it appears.

■ B. Removing paragraph (e)(4).

■ C. Redesignating paragraph (e)(5) as paragraph (e)(4).

■ D. Removing paragraph (e)(6).

■ E. Redesignating paragraphs (e)(7) and (e)(8) as paragraphs (e)(5) and (e)(6), respectively.

■ F. In newly redesignated paragraph (e)(5), removing the words ''paragraphs (e)(3) and (e)(4)'' and adding, in their place, the words ''paragraph (e)(3)''.

■ G. Removing paragraph (e)(9).

■ H. Revising paragraph (f) to read as follows:

**§ 674.34 Deferment of repayment—Federal Perkins loans, NDSLs and Defense loans.**

* * * * *

(f)(1) To qualify for a deferment for study as part of a graduate fellowship program pursuant to paragraph (b)(1)(ii) of this section, a borrower must provide the institution with a statement from an authorized official of the borrower's graduate fellowship program certifying—

(i) That the borrower holds at least a baccalaureate degree conferred by an institution of higher education;

(ii) That the borrower has been accepted or recommended by an institution of higher education for acceptance on a full-time basis into an eligible graduate fellowship program; and

(iii) The borrower's anticipated completion date in the program.

(2) For purposes of paragraph (b)(1)(ii) of this section, an eligible graduate fellowship program is a fellowship program that—

(i) Provides sufficient financial support to graduate fellows to allow for full-time study for at least six months;

(ii) Requires a written statement from each applicant explaining the applicant's objectives before the award of that financial support;

(iii) Requires a graduate fellow to submit periodic reports, projects, or evidence of the fellow's progress; and

(iv) In the case of a course of study at a foreign university, accepts the course of study for completion of the fellowship program.

* * * * *

■ 10. Section 674.39 is amended by revising paragraph (a)(2) to read as follows:

**§ 674.39 Loan rehabilitation.**

(a) * * *

(2) A loan is rehabilitated if the borrower—

(i) Requests rehabilitation; and

(ii) Makes a full monthly payment—as determined by the institution—within 20 days of the due date, each month for 9 consecutive months.

* * * * *

**§ 674.50 [Amended]**

■ 11. Section 674.50(e)(1) is amended by removing the words ''is submitted for assignment under 674.8(d)(3)'' and adding, in their place, the words ''was made before September 13, 1982''.

■ 12. Section 674.52 is amended by:

■ A. Removing paragraph (b)(2).
■ B. Redesignating paragraph (b)(1)(i) as paragraph (b)(1).
■ C. Redesignating paragraph (b)(1)(ii) as paragraph (b)(2).
■ D. Redesignating paragraphs (c), (d), and (e) as paragraphs (d), (e), and (f), respectively.
■ E. Adding a new paragraph (c).
■ F. Adding a new paragraph (g).
The additions read as follows:

**§ 674.52 Cancellation procedures.**

* * * * *

(c) *Break in service.* (1) If the borrower is unable to complete an academic year of eligible teaching service due to a condition that is covered under the Family and Medical Leave Act of 1993 (FMLA) (29 U.S.C. 2601, *et seq.*), the borrower still qualifies for the cancellation if—

(i) The borrower completes one half of the academic year; and

(ii) The borrower's employer considers the borrower to have fulfilled his or her contract requirements for the academic year for purposes of salary increases, tenure, and retirement.

(2) If the borrower is unable to complete a year of eligible service under §§ 674.56, 674.57, 674.59, or 674.60 due to a condition that is covered under the FMLA, the borrower still qualifies for the cancellation if the borrower completes at least six consecutive months of eligible service.

* * * * *

(g) *Switching cancellation categories.* A borrower who qualifies for a cancellation under one of the cancellation categories in §§ 674.53, 674.56, 674.57, or 674.59 receives cancellation of 15 percent of the original principal for the first and second years of qualifying service, 20 percent of the original principal for the third and fourth years of qualifying service, and 30 percent of the original principal for the fifth year of qualifying service. If, after the first, second, third, or fourth complete year of qualifying service—

(1) The borrower switches to a position that qualifies the borrower for cancellation under a different cancellation category under §§ 674.53, 674.56, 674.57, or 674.59, the borrower's cancellation rate progression continues from the last year the borrower received a cancellation under the former cancellation category; or

(2) The borrower switches to a position that qualifies the borrower for cancellation under a different cancellation category under §§ 674.58 or 674.60, the borrower's cancellation rate progression under the new cancellation category begins at the year one cancellation rates specified in §§ 674.58(b) or 674.60(b), respectively.

* * * * *

## PART 682—FEDERAL FAMILY EDUCATION LOAN (FFEL) PROGRAM

■ 13. The authority citation for part 682 continues to read as follows:

**Authority:** 20 U.S.C. 1071 to 1087–2, unless otherwise noted.

■ 14. Section 682.100 is amended by:
■ A. Revising the introductory text of paragraph (a).
■ B. In paragraph (a)(1), removing the word ''encourages'' and adding, in its place, the word ''encouraged''.
■ C. In the first sentence of paragraph (a)(3), removing the word ''encourages'' and adding, in its place, the word ''encouraged''.
■ D. Revising the last sentence of paragraph (a)(3).
■ E. In paragraph (a)(4), removing the word ''encourages'' and adding, in its place, the word ''encouraged''.
■ F. In paragraph (a)(4), adding the words ''and prior to July 1, 2010'' in the last sentence between the date ''November 13, 1997'' and the punctuation ''.''.
■ G. Revising paragraph (b)(2)(iii).
The revisions read as follows:

**§ 682.100 The Federal Family Education Loan programs.**

(a) This part governs the following four programs collectively referred to in these regulations as ''the Federal Family Education Loan (FFEL) programs,'' in which lenders used their own funds prior to July 1, 2010, to make loans to enable a student or his or her parents to pay the costs of the student's attendance at postsecondary schools.

* * * * *

(3) * * * The PLUS Program also provided for making loans to graduate and professional students on or after July 1, 2006 and prior to July 1, 2010.

* * * * *

(b) * * *
(2) * * *
(iii) The Federal GSL programs were authorized to operate in States not served by a guaranty agency program. In addition, the FISL and Federal SLS (as in effect for periods of enrollment that began prior to July 1, 1994) programs were authorized, under limited circumstances, to operate in States in which a guaranty agency program did not serve all eligible students.

* * * * *

■ 15. Section 682.101 is amended by:
■ A. Adding introductory text to this section.
■ B. In paragraph (a), removing the words ''may make loans.'' and adding, in their place, the words ''made loans prior to July 1, 2010.''
■ C. In paragraph (b), removing the words ''may participate'' and adding, in their place, the word ''participated''.
■ D. Revising paragraph (c).
The addition and revision read as follows:

**§ 682.101 Participation in the FFEL programs.**

The following entities and persons participate in the FFEL programs:

* * * * *

(c) Students who met certain requirements, including enrollment at a participating school, borrowed under the Stafford Loan Program prior to July 1, 2010 and, for periods of enrollment that began prior to July 1, 1994, the SLS program. Parents of eligible dependent undergraduate students borrowed under the PLUS Program prior to July 1, 2010. Borrowers with outstanding Stafford, SLS, FISL, Perkins, HPSL, HEAL, ALAS, PLUS, or Nursing Student Loan Program loans borrowed under the Consolidation Loan Program prior to July 1, 2010. The PLUS Program also provided for making loans to graduate and professional students on or after July 1, 2006 and prior to July 1, 2010.

* * * * *

■ 16. Section 682.102 is amended by:
■ A. Revising the section heading.
■ B. Removing paragraphs (a), (c), and (d).
■ C. In the introductory text of paragraph (e), removing the paragraph heading.
■ D. Redesignating paragraphs (e)(1) through (e)(7) as paragraphs (a) through (g), respectively.
■ E. In newly redesignated paragraph (a), revising the last sentence.
■ F. In newly redesignated paragraph (b), removing the words ''on a Stafford Loan''.
The revisions read as follows:

**§ 682.102 Repaying a loan.**

(a) * * * The obligation to repay all or a portion of a loan may be forgiven for Stafford Loan borrowers who enter certain areas of the teaching profession.

* * * * *

**§ 682.103 [Amended]**

■ 17. Section 682.103(c) is amended by removing the letter and the punctuation ''E,''.

■ 18. Section 682.200 is amended by:
■ A. In paragraph (a)(1) introductory text, removing the words ''subpart A of''.
■ B. In paragraph (a)(1), removing from the list, the terms *Academic Competitiveness Grant (ACG) Program,*

*Graduate and professional student, Leveraging Educational Assistance Partnership (LEAP) Program, National Science and Mathematics Access to Retain Talent Grant (National SMART Grant) Program, Supplemental Educational Opportunity Grant (SEOG) Program,* and *Supplemental Loans for Students (SLS) Program.*

■ C. In paragraph (a)(1), adding to the list, in alphabetical order, the terms *Federal Supplemental Educational Opportunity Grant (SEOG) Program, Federal Supplemental Loans for Students (SLS) Program,* and *Graduate or professional student.*

■ D. In paragraph (b), in the definition of *Authority,* removing the words ''making or purchasing'' and adding, in their place, the word ''purchase''.

■ E. In paragraph (b), in the definition of *Borrower,* removing the word ''is'' and adding, in its place, the word ''was''.

■ F. In paragraph (b), in the definition of *Estimated financial assistance,* in paragraph (1)(vi), removing the words ''Academic Competitiveness Grant, National SMART Grant,''.

■ G. In paragraph (b), in the definition of *Lender,* revising paragraph (5)(i)(A)(*10*).

■ H. In paragraph (b), in the definition of *Lender,* revising paragraph (8).

■ I. In paragraph (b), revising the definition of *Nationwide consumer reporting agency.*

■ J. In paragraph (b), revising the definition of *Satisfactory repayment arrangement.*

The revisions read as follows:

**§ 682.200 Definitions.**

* * * * *

(b) * * *

*Lender*

* * * * *

(5) * * *

(i) * * *

(A) * * *

(*10*) Performance of, or payment to another third party to perform, any school function required under title IV, except that the lender may perform entrance counseling and, as provided in § 682.604(a), exit counseling, and may provide services to participating foreign schools at the direction of the Secretary, as a third-party servicer; and

* * * * *

(8) As of January 1, 2007, and for loans first disbursed on or after that date under a trustee arrangement, an eligible lender operating as a trustee under a contract entered into on or before September 30, 2006, and which continues in effect with a school or a school-affiliated organization—

(i) Must not—

(A) Make a loan to any undergraduate student;

(B) Make a loan other than a Federal Stafford loan to a graduate or professional student; or

(C) Make a loan to a borrower who is not enrolled at that school;

(ii) Must offer loans that carry an origination fee or an interest rate, or both, that are less than the fee or rate authorized under the provisions of the Act; and

(iii) Must, for any fiscal year beginning on or after July 1, 2006 in which the school engages in activities as an eligible lender, submit an annual compliance audit that satisfies the following requirements:

(A) With regard to a school that is a governmental entity or a nonprofit organization, the audit must be conducted in accordance with § 682.305(c)(2)(v) and chapter 75 of title 31, United States Code, and in addition, during years when the student financial aid cluster (as defined in Office of Management and Budget Circular A–133, Appendix B, Compliance Supplement) is not audited as a ''major program'' (as defined under 31 U.S.C. 7501) must, without regard to the amount of loans made, include in such audit the school's lending activities as a major program.

(B) With regard to a school that is not a governmental entity or a nonprofit organization, the audit must be conducted annually in accordance with § 682.305(c)(2)(i) through (iii).

(C) With regard to any school, the audit must include a determination that—

(*1*) The school used all payments and proceeds (i.e., special allowance and interest payments from borrowers, interest subsidy payments, proceeds from the sale or other disposition of loans) from the loans for need-based grant programs;

(*2*) Those need-based grants supplemented, rather than supplanted, the institution's use of non-Federal funds for such grants; and

(*3*) The school used no more than a reasonable portion of payments and proceeds from the loans for direct administrative expenses.

* * * * *

*Nationwide consumer reporting agency.* A consumer reporting agency that compiles and maintains files on consumers on a nationwide basis and as defined in 15 U.S.C. 1681a(p).

* * * * *

*Satisfactory repayment arrangement.* (1) For purposes of regaining eligibility under the title IV student financial assistance programs, the making of six consecutive, on-time, voluntary full monthly payments on a defaulted loan. A borrower may only obtain the benefit of this paragraph with respect to renewed eligibility once.

(2) The required full monthly payment amount may not be more than is reasonable and affordable based on the borrower's total financial circumstances. Voluntary payments are payments made directly by the borrower, and do not include payments obtained by income tax off-set, garnishment, or income or asset execution. ''On-time'' means a payment received by the Secretary or a guaranty agency or its agent within 20 days of the scheduled due date.

(3) A borrower has not used the one opportunity to renew eligibility for title IV assistance if the borrower makes six consecutive, on-time, voluntary, full monthly payments under an agreement to rehabilitate a defaulted loan but does not receive additional title IV assistance prior to defaulting on that loan again.

* * * * *

**§ 682.201 [Amended]**

■ 19. Section 682.201 is amended by:

■ A. In paragraph (a) introductory text, removing the words ''made under § 682.209(e) or (f)''.

■ B. In paragraph (a)(4)(ii) introductory text, adding the words ''paragraph (a)(4) of'' between the words ''of'' and ''this''.

■ C. In paragraph (a)(6) introductory text, removing the word ''student'' and adding, in its place, the word ''borrower''.

■ D. In paragraph (c)(2)(i), removing the words ''credit bureau'' and adding, in their place, the words ''consumer reporting agency''.

■ 20. Section 682.202 is amended by:

■ A. Revising paragraphs (a)(1)(i), (a)(1)(ii) introductory text, (a)(1)(iii), (a)(1)(iv), (a)(1)(v), and (a)(1)(vi) introductory text.

■ B. In paragraph (a)(1)(vii) introductory text, removing the first occurrence of the word ''is'' and adding, in its place, the word ''was''.

■ C. In paragraph (a)(1)(viii) introductory text, removing the first occurrence of the word ''is'' and adding, in its place, the word ''was''.

■ D. In paragraph (a)(1)(ix), removing the first occurrence of the word ''is'' and adding, in its place, the word ''was''.

■ E. In paragraph (a)(1)(x) introductory text, removing the word ''is'' and adding, in its place, the word ''was''.

■ F. Removing paragraphs (a)(1)(x)(D) and (a)(1)(x)(E).

■ G. In paragraph (a)(2)(ii) introductory text, removing the words ''loan made

under § 682.209(e) or (f)'' and adding, in their place, the words ''refinanced PLUS loan''.

■ H. In paragraph (a)(2)(iv) introductory text, removing the first occurrence of the word ''is'' and adding, in its place, the word ''was''.

■ I. In paragraph (a)(2)(v) introductory text, removing the first occurrence of the word ''is'' and adding, in its place, the word ''was''.

■ J. In paragraph (a)(3)(ii) introductory text, removing the words ''loan made under § 682.209(e) or (f)'' and adding, in their place, the words ''refinanced SLS loan''.

■ K. In paragraph (a)(4)(iv) introductory text, adding the words ''and prior to July 1, 2010'' after the date ''1998'' and before the punctuation '',''.

■ L. In paragraph (a)(4)(v), adding the words ''and prior to July 1, 2010'' after the date ''1997'' and before the punctuation '',''.

■ M. In paragraph (a)(7)(iii)(A), removing the citation ''(a)(6)(ii)'' and adding, in its place, the citation ''(a)(7)(i)''.

■ N. In paragraph (b)(1), adding the words ''or Federal default fees'' between the words ''premiums'' and ''to''.

■ O. Removing paragraph (c)(1)(vi).

■ P. Redesignating paragraph (c)(1)(vii) as paragraph (c)(1)(vi).

■ Q. In paragraphs (c)(5), (c)(6), and the introductory text of paragraph (c)(7), removing the word ''Shall'' and adding, in its place, the words ''A lender must''.

■ R. In paragraph (c)(7)(iv), removing the words ''in accordance with § 682.207(b)(1)(ii)(B) and (C)''.

■ S. In paragraph (d)(2), removing the words '', other than an SLS or PLUS loan refinanced under § 682.209(e) or (f)'' and adding, in their place, the words ''and prior to July 1, 2010''.

■ T. Removing paragraph (e).

■ U. Redesignating paragraphs (f) through (h) as paragraphs (e) through (g), respectively.

■ V. In newly redesignated paragraph (e)(1), removing the citation ''(f)(2)'' and adding, in its place, the citation ''(e)(2)''.

■ W. In newly redesignated paragraph (f)(1)(i), removing ''Attorney's'' and adding, in its place, ''Attorney''.

■ X. In newly redesignated paragraph (f)(2), removing the citation ''(g)(1)'' and adding, in its place, the citation ''(f)(1)''.

The revisions read as follows:

**§ 682.202 Permissible charges by lenders to borrowers.**

* * * * *

(a) * * *

(1) * * *

(i) For loans made prior to July 1, 1994, if the borrower, on the date the promissory note evidencing the loan was signed, had an outstanding balance of principal or interest on a previous Stafford loan, the interest rate is the applicable interest rate on that previous Stafford loan.

(ii) If the borrower, on the date the promissory note evidencing the loan was signed, had no outstanding balance on any FFEL Program loan, and the first disbursement was made—

* * * * *

(iii) For a Stafford loan for which the first disbursement was made before October 1, 1992—

(A) If the borrower, on the date the promissory note was signed, had no outstanding balance on a Stafford loan but had an outstanding balance of principal or interest on a PLUS or SLS loan made for a period of enrollment beginning before July 1, 1988, or on a Consolidation loan that repaid a loan made for a period of enrollment beginning before July 1, 1988, the interest rate is 8 percent; or

(B) If the borrower, on the date the promissory note evidencing the loan was signed, had an outstanding balance of principal or interest on a PLUS or SLS loan made for a period of enrollment beginning on or after July 1, 1988, or on a Consolidation loan that repaid a loan made for a period of enrollment beginning on or after July 1, 1988, the interest rate is 8 percent until 48 months elapse after the repayment period begins, and 10 percent thereafter.

(iv) For a Stafford loan for which the first disbursement was made on or after October 1, 1992, but before December 20, 1993, if the borrower, on the date the promissory note evidencing the loan was signed, had no outstanding balance on a Stafford loan but had an outstanding balance of principal or interest on a PLUS, SLS, or Consolidation loan, the interest rate is 8 percent.

(v) For a Stafford loan for which the first disbursement was made on or after December 20, 1993 and prior to July 1, 1994, if the borrower, on the date the promissory note was signed, had no outstanding balance on a Stafford loan but had an outstanding balance of principal or interest on a PLUS, SLS, or Consolidation loan, the interest rate is the rate provided in paragraph (a)(1)(ii)(B) of this section.

(vi) For a Stafford loan for which the first disbursement was made on or after July 1, 1994 and prior to July 1, 1995, for a period of enrollment that included or began on or after July 1, 1994, the interest rate is a variable rate, applicable to each July 1–June 30 period, that equals the lesser of—

* * * * *

■ 21. Section 682.204 is amended by:

■ A. In paragraph (a) introductory text, removing the words ''Federal Direct Stafford/Ford'' and adding, in their place, the words ''Direct Subsidized''.

■ B. In paragraphs (a)(1)(i) and (a)(1)(ii), removing the words ''$2,625, or, for a loan disbursed on or after July 1, 2007, $3,500,'' and adding, in their place, the figure ''$3,500''.

■ C. Revising paragraph (a)(1)(iii).

■ D. In paragraph (a)(2) introductory text, removing the words ''Federal Direct Stafford/Ford'' and adding, in their place, the words ''Direct Subsidized''.

■ E. In paragraphs (a)(2)(i) and (a)(2)(ii), removing the words ''$3,500, or, for a loan disbursed on or after July 1, 2007, $4,500,'' and adding, in their place, the figure ''$4,500''.

■ F. In paragraph (a)(3) introductory text, removing the words ''Federal Direct Stafford/Ford'' and adding, in their place, the words ''Direct Subsidized''.

■ G. Revising paragraph (a)(5).

■ H. In paragraph (a)(6) introductory text and paragraph (a)(7), removing the words ''Federal Direct Stafford/Ford'' and adding, in their place, the words ''Direct Subsidized''.

■ I. In paragraph (b) introductory text, removing the words ''Federal Direct Stafford/Ford'', and adding, in their place, the words ''Direct Subsidized''.

■ J. Revising paragraph (c)(1).

■ K. Revising paragraph (c)(2).

■ L. In paragraph (d) introductory text, removing the word ''additional'' that appears after the word ''borrow''.

■ M. In paragraph (d) introductory text, removing the words ''Federal Direct Unsubsidized Stafford/Ford'' and adding, in their place, the words ''Direct Unsubsidized''.

■ N. In paragraphs (d)(1)(i), (d)(1)(ii), (d)(2)(i), and (d)(2)(ii), removing the words ''$4,000, or, for a loan first disbursed on or after July 1, 2008, $6,000,'' and adding, in their place, the figure ''$6,000''.

■ O. Revising paragraph (d)(1)(iii).

■ P. In paragraphs (d)(3)(i) and (d)(3)(ii), removing the words ''$5,000, or, for a loan first disbursed on or after July 1, 2008, $7,000,'' and adding, in their place, the figure ''$7,000''.

■ Q. In paragraph (d)(5), removing the words ''$10,000, or, for a loan disbursed on or after July 1, 2007,''.

■ R. In paragraph (d)(6)(i), removing the words ''$4,000, or, for a loan first disbursed on or after July 1, 2008, $6,000,'' and adding, in their place, the figure ''$6,000''.

■ S. In paragraph (d)(6)(ii), removing the words ''$5,000, or, for a loan disbursed on or after July 1, 2007, $7,000,'' and

adding, in their place, the figure ''$7,000''.

■ T. In paragraph (d)(6)(iii), removing the words ''$5,000, or, for a loan disbursed on or after July 1, 2007,''.

■ U. Revising paragraph (e).

■ V. Removing paragraph (f).

■ W. Redesignating paragraphs (g) through (m) as paragraphs (f) through (l), respectively.

■ X. In newly redesignated paragraph (l), removing the citation ''(d), (e), and (f)'' and adding, in its place, the citation ''(d), and (e)''.

The revisions read as follows:

**§ 682.204 Maximum loan amounts.**

(a) * * *

(1) * * *

(iii) For a program of study that is less than a full academic year in length, the amount that is the same ratio to $3,500 as the lesser of the—

$$\frac{\text{Number of semester, trimester, quarter, or clock hours enrolled}}{\text{Number of semester, trimester, quarter, or clock hours in academic year}}$$

or

$$\frac{\text{Number of weeks enrolled}}{\text{Number of weeks in academic year}}$$

* * * * *

(5) In the case of a graduate or professional student, the total amount the student may borrow for loans made prior to July 1, 2010 for any academic year of study under the Stafford Loan Program, in combination with any amount borrowed under the Direct Subsidized Loan Program, may not exceed $8,500.

* * * * *

(c) * * *

(1) Except for a dependent undergraduate student who qualifies for additional Unsubsidized Stafford Loan funds because the student's parents are unable to borrow under the PLUS Loan Program, as described in paragraph (d) of this section, the total amount the dependent undergraduate student may borrow for any academic year under the Unsubsidized Stafford Loan Program in combination with the Direct Unsubsidized Loan Program is the same amount determined under paragraph (a) of this section, less any amount received under the Stafford Loan Program or the Direct Subsidized Loan program, plus—

(i) $2,000, for a program of study of at least a full academic year in length.

(ii) For a program of study that is at least one academic year or more in length with less than a full academic year remaining, the amount that is the same ratio to $2,000 as the—

$$\frac{\text{Number of semester, trimester, quarter, or clock hours enrolled}}{\text{Number of semester, trimester, quarter, or clock hours in academic year}}$$

(iii) For a program of study that is less than a full academic year in length, the amount that is the same ratio to $2,000 as the lesser of the—

$$\frac{\text{Number of semester, trimester, quarter, or clock hours enrolled}}{\text{Number of semester, trimester, quarter, or clock hours in academic year}}$$

or

$$\frac{\text{Number of weeks enrolled}}{\text{Number of weeks in academic year}}$$

(2) In the case of an independent undergraduate student, a graduate or professional student, or certain dependent undergraduate students under the conditions specified in § 682.201(a)(3), the total amount the student may borrow for any period of enrollment under the Unsubsidized Stafford Loan and Direct Unsubsidized Loan programs may not exceed the amounts determined under paragraph (a) of this section less any amount received under the Federal Stafford Loan Program or the Direct Subsidized Loan Program, in combination with the amounts determined under paragraph (d) of this section.

(d) * * *

(1) * * *

(iii) For a program of study that is less than a full academic year in length, an amount that is the same ratio to $6,000 as the lesser of—

$$\frac{\text{Number of semester, trimester, quarter, or clock hours enrolled}}{\text{Number of semester, trimester, quarter, or clock hours in academic year}}$$

or

$$\frac{\text{Number of weeks enrolled}}{\text{Number of weeks in academic year}}$$

* * * * *

(e) *Combined Federal Stafford, SLS and Federal Unsubsidized Stafford Loan Program aggregate limits.* The aggregate unpaid principal amount of Stafford Loans, Direct Subsidized Loans, Unsubsidized Stafford Loans, Direct Unsubsidized Loans and SLS Loans, but excluding the amount of capitalized interest, may not exceed the following:

(1) $31,000 for a dependent undergraduate student.

(2) $57,500 for an independent undergraduate student or a dependent undergraduate student under the conditions specified in § 682.201(a)(3).

(3) $138,500 for a graduate or professional student.

* * * * *

■ 22. Section 682.205 is amended by:

■ A. Removing paragraphs (a), (b), (g), and (i).

■ B. Redesignating paragraphs (c), (d), (e), (f), (h), and (j) as paragraphs (a), (b), (c), (d), (e), and (f), respectively.

■ C. In newly redesignated paragraph (a)(1), removing the citation ''(c)(2)'' and adding, in its place, the citation ''(a)(2)''.

■ D. In newly redesignated paragraph (a)(3) introductory text, removing the citation ''(c)(1)'' and adding, in its place, the citation ''(a)(1)''.

■ E. Revising newly redesignated paragraph (a)(4).

■ F. In newly redesignated paragraph (a)(5)(ii), adding the word ''business'' after the word ''five''.

■ G. In newly redesignated paragraph (b), removing the citation ''(c)(2)(viii)'' and adding, in its place, the citation ''(a)(2)(viii)''.

■ H. In newly redesignated paragraph (e)(2), removing the citation ''(h)(1)'' and adding, in its place, the citation ''(e)(1)''.

The revision reads as follows:

**§ 682.205 Disclosure requirements for lenders.**

(a) * * *

(4) *Required disclosures for borrowers having difficulty making payments.* (i) Except as provided in paragraph (a)(4)(ii) of this section, the lender must

provide a borrower who has notified the lender that he or she is having difficulty making payments with—

(A) A description of the repayment plans available to the borrower, and how the borrower may request a change in repayment plan;

(B) A description of the requirements for obtaining forbearance on the loan and any costs associated with forbearance; and

(C) A description of the options available to the borrower to avoid default and any fees or costs associated with those options.

(ii) A disclosure under paragraph (a)(4)(i) of this section is not required if the borrower's difficulty has been resolved through contact with the borrower resulting from an earlier disclosure or other communication between the lender and the borrower.

* * * * *

**§ 682.206 [Removed and Reserved]**

■ 23. Section 682.206 is removed and reserved.

**§ 682.207 [Removed and Reserved]**

■ 24. Section 682.207 is removed and reserved.

**§ 682.208 [Amended]**

■ 25. Section 682.208 is amended by:

■ A. In paragraph (a), removing the words ''national credit bureaus'' and adding, in their place, the words ''nationwide consumer reporting agencies''.

■ B. In paragraph (b)(1) introductory text, removing the words ''at least one national credit bureau'' and adding, in their place, the words ''each nationwide consumer reporting agency''.

■ C. In paragraph (b)(2), removing the words ''at least one national credit bureau'' and adding, in their place, the words ''each nationwide consumer reporting agency''.

■ D. In paragraph (b)(3) introductory text, removing both occurrences of the words ''credit bureau'' and adding, in their place, the words ''consumer reporting agency''.

■ E. In paragraph (b)(3)(i)(A), removing the words ''credit bureau'' and adding, in their place, the words ''consumer reporting agency''.

■ F. In paragraph (e)(3), removing the citation ''§ 682.401(b)(17)(ii)'' and adding, in its place, the citation ''§ 682.401(b)(8)(ii)''.

■ G. In paragraph (g), removing the citation ''§ 682.411(g)'' and adding, in its place, the citation ''§ 682.411(h)''.

■ 26. Section 682.209 is amended by:

■ A. In paragraph (a)(3)(i)(B), removing the word ''and''.

■ B. In paragraph (a)(3)(i)(C), removing the punctuation ''.'' and adding, in its place, the punctuation and the word ''; and''.

■ C. Adding a new paragraph (a)(3)(i)(D).

■ D. In paragraph (a)(3)(ii)(E), removing the citation ''§ 682.205(c)(1)'' and adding, in its place, the citation ''§ 682.205(a)(1)''.

■ E. In paragraph (b)(2)(ii), revising the last sentence.

■ F. Removing paragraphs (e), (f), (g), and (j).

■ G. Redesignating paragraphs (h), (i), and (k) as paragraphs (e), (f), and (g), respectively.

■ H. In newly redesignated paragraph (e)(3) introductory text, removing the citation ''(h)(2)'' and adding, in its place, the citation ''(e)(2)''.

■ I. In newly redesignated paragraph (e)(4)(ii), removing the word ''Must'' and adding, in its place, the words ''Except in the case of an income-based repayment schedule, must''.

■ J. In newly redesignated paragraph (e)(5), removing the citation ''(h)(2)'' and adding, in its place, the citation ''(e)(2)''.

■ K. In newly redesignated paragraph (f)(2)(i), removing the words ''under § 682.209(f)''.

■ L. In newly redesignated paragraph (f)(2)(ii), removing the citation ''(i)(2)(i)'' and adding, in its place, the citation ''(f)(2)(i)''.

The addition and revision read as follows:

**§ 682.209 Repayment of a loan.**

(a) * * *

(3) * * *

(i) * * *

(D) For a borrower with a loan for which the applicable interest rate is fixed at 6.0 percent per year, 5.6 percent per year, or 6.8 percent per year, the day after 6 months following the date on which the borrower is no longer enrolled on at least a half-time basis at an institution of higher education.

* * * * *

(b) * * *

(2) * * *

(ii) * * * Information related to next scheduled payment due date need not be provided to borrowers making such prepayments while in an in-school, grace, deferment, or forbearance period when payments are not due.

* * * * *

■ 27. Section 682.210 is amended by:

■ A. In paragraph (a)(4), adding the words and punctuation '', or the borrower's representative for purposes of paragraphs (i) and (t) of this section,'' between the words ''borrower'' and ''must''.

■ B. Revising paragraph (b).

■ C. In paragraph (n)(1) introductory text, removing the words and citations ''paragraphs (b)(2)(v) or (b)(5)(iii)'' and adding, in their place, the word and citation ''paragraph (b)(3)(iv)''.

■ D. In paragraph (n)(2), removing the citation ''(b)(2)(v)'' and adding, in its place, the citation ''(b)(3)(iv)''.

■ E. In paragraph (o)(1) introductory text, removing the citation ''(b)(3)'' and adding, in its place, the citation ''(b)(3)(i)''.

■ F. In paragraph (q)(1) introductory text, removing the citation ''(b)(5)(ii)'' and adding, in its place, the citation ''(b)(3)(iii)''.

■ G. In paragraph (r)(1) introductory text, removing the citation ''(b)(5)(iv)'' and adding, in its place, the citation ''(b)(3)(v)''.

■ H. In paragraph (s)(2), removing the punctuation and the words '', except that the borrower is not required to obtain a Stafford or SLS loan for the period of enrollment covered by the deferment''.

■ I. In paragraph (s)(6) introductory text, removing both occurrences of the citation ''(s)(6)(vi)'' and adding, in their place, the citation ''(s)(6)(iv)''.

■ J. In paragraph (u)(5), removing both occurrences of the words ''military active'' and adding, in their place, the words ''post-active''.

The revision reads as follows:

**§ 682.210 Deferment.**

* * * * *

(b) *Authorized deferments for borrowers prior to July 1, 1993*—(1) *For all borrowers who are not new borrowers on or after July 1, 1993.* Deferment is authorized for a FFEL borrower during any period when the borrower is—

(i) Except as provided in paragraph (b)(4) of this section, engaged in full-time study at a school in accordance with paragraph (c) of this section;

(ii) Engaged in a course of study under an eligible graduate fellowship program in accordance with paragraph (d) of this section;

(iii) Engaged in a rehabilitation training program for disabled individuals in accordance with paragraph (e) of this section;

(iv) Temporarily totally disabled in accordance with paragraph (f) of this section, or unable to secure employment because the borrower is caring for a spouse or other dependent who is disabled and requires continuous nursing or similar services for up to three years in accordance with paragraph (g) of this section; or

(v) Conscientiously seeking, but unable to find, full-time employment in the United States, for up to two years,

in accordance with paragraph (h) of this section.

(2) *For all Stafford and SLS borrowers who are not new borrowers on or after July 1, 1993, and for parent PLUS loans made before August 15, 1983.* Deferment is authorized during any period when the borrower is—

(i) On active duty status in the United States Armed Forces in accordance with paragraph (i) of this section, or an officer in the Commissioned Corps of the United States Public Health Service in accordance with paragraph (j) of this section, for up to three years (including any period during which the borrower received a deferment authorized under paragraph (b)(3)(ii) of this section);

(ii) A full-time volunteer under the Peace Corps Act, for up to three years, in accordance with paragraph (k) of this section;

(iii) A full-time volunteer under title I of the Domestic Volunteer Service Act of 1973 (ACTION programs), for up to three years, in accordance with paragraph (l) of this section;

(iv) A full-time volunteer for a tax-exempt organization, for up to three years, in accordance with paragraph (m) of this section; or

(v) Engaged in an internship or residency program, in accordance with paragraph (n) of this section, for up to two years (including any period during which the borrower received a deferment authorized under paragraph (b)(3)(iv) of this section).

(3) *For new Stafford or SLS borrowers on or after July 1, 1987 but before July 1, 1993.* Deferment is authorized—

(i) In accordance with paragraph (o) of this section, if the borrower has been enrolled on at least a half-time basis at an institution of higher education during the six months preceding the beginning of the deferment, for a period of up to six months during which the borrower is—

(A)(*1*) Pregnant;

(*2*) Caring for his or her newborn child; or

(*3*) Caring for a child immediately following the placement of the child with the borrower before or immediately following adoption; and

(B) Not attending a school or gainfully employed;

(ii) During a period when the borrower is on active duty status in the National Oceanic and Atmospheric Administration Corps, for up to three years, in accordance with paragraph (p) of this section, (including any period during which the borrower received a deferment authorized under paragraph (b)(2)(i) of this section);

(iii) During a period of up to three years when the borrower is serving as a full-time teacher in a public or non-profit private elementary or secondary school in a teacher shortage area designated by the Secretary under paragraph (q) of this section;

(iv) During a period when the borrower is engaged in an internship or residency program, for up to two years, in accordance with paragraph (n) of this section, (including any period during which the borrower received a deferment authorized under paragraph (b)(2)(v) of this section); or

(v) When a mother who has preschool-age children (i.e., children who have not enrolled in first grade) and who is earning not more than $1 per hour above the Federal minimum wage, for up to 12 months of employment, and who began that full-time employment within one year of entering or re-entering the work force, in accordance with paragraph (r) of this section. Full-time employment involves at least 30 hours of work a week and it is expected to last at least 3 months.

(4) *For new Stafford or SLS borrowers on or after July 1, 1987.* Deferment is authorized during periods when the borrower is engaged in at least half-time study at a school in accordance with paragraph (b) of this section.

(5) *For new parent PLUS borrowers on or after July 1, 1987 and before July 1, 1993.* Deferment is authorized during any period when a student on whose behalf the parent borrower received the loan—

(i) Is not independent as defined in section 480(d) of the Act; and

(ii) Meets the conditions and provides the required documentation, for any of the deferments described in paragraphs (b)(1)(i) through (iii) and (b)(4) of this section.

(6) *Definition of a new borrower.* For purposes of paragraphs (b)(3), (b)(4), and (b)(5) of this section, a ''new borrower'' with respect to a loan is a borrower who, on the date he or she signs the promissory note, has no outstanding balance on—

(i) A Stafford, SLS, or PLUS loan made prior to July 1, 1987 for a period of enrollment beginning prior to July 1, 1987; or

(ii) A Consolidation loan that repaid a loan made prior to July 1, 1987 and for a period of enrollment beginning prior to July 1, 1987.

* * * * *

■ 28. Section 682.211 is amended by:

■ A. In paragraph (a)(4), removing the citation ''(f)(10)'' and adding, in its place, the citation ''(f)(11)''.

■ B. Revising paragraphs (c) and (d).

■ C. In paragraph (f)(2), removing the words ''or an administrative forbearance period as specified under paragraph (f)(11) or (i)(2) of this section;'' and adding, in their place, the words ''or an authorized period of forbearance;''.

■ D. In paragraph (f)(6), removing the words ''credit bureau'' and adding, in their place, the words ''consumer reporting agency''.

■ E. In paragraph (h)(2)(ii)(B), removing the words ''10 U.S.C. 2171; or'' and adding, in their place, the words ''10 U.S.C. 2171, 2173, 2174 or any other student loan repayment programs administered by the Department of Defense; or''.

■ F. In paragraph (h)(2)(ii)(C), removing the citation ''§ 682.215'' and adding, in its place, the citation ''§ 682.216''.

■ G. In paragraph (h)(4)(iii)(A), removing the citation ''§ 682.215(c)'' and adding, in its place the citation ''§ 682.216(c)''.

■ H. In paragraph (h)(4)(iii)(B), removing the citation ''§ 682.215(c)'' and adding, in its place the citation ''§ 682.216(c)''.

The revisions read as follows:

**§ 682.211 Forbearance.**

* * * * *

(c) Except as provided in paragraph (d)(2) of this section, a lender may grant forbearance for a period of up to one year at a time if both the borrower or endorser and an authorized official of the lender agree to the terms of the forbearance. If the borrower or endorser requests the forbearance orally and the lender and the borrower or endorser agree to the terms of the forbearance orally, the lender must notify the borrower or endorser of the terms within 30 days of that agreement.

(d)(1) A guaranty agency may authorize a lender to grant forbearance to permit a borrower or endorser to resume honoring the agreement to repay the debt after default but prior to claim payment. The forbearance agreement in this situation must include a new agreement to repay the debt signed by the borrower or endorser or a written or oral affirmation of the borrower's or endorser's obligation to repay the debt.

(2) If the forbearance is based on the borrower's or endorser's oral request and affirmation of the obligation to repay the debt—

(i) The forbearance period is limited to a period of 120 days;

(ii) Such a forbearance cannot be granted consecutively;

(iii) The lender must orally review with the borrower the terms and conditions of the forbearance, including the consequences of interest capitalization, and all other repayment options available to the borrower; and

(iv) The lender must—

(A) Send a notice to the borrower or endorser, as provided in paragraph (c) of this section, that confirms the terms of the forbearance and the borrower's or endorser's affirmation of the obligation to repay the debt, and includes information on all other repayment options available to the borrower, and

(B) Retain a record of the terms of the forbearance and affirmation in the borrower's or endorser's file.

(3) For purposes of this section, an ''affirmation'' means an acknowledgement of the loan by the borrower or endorser in a legally binding manner. The form of the affirmation may include, but is not limited to, the borrower's or endorser's—

(i) New signed repayment agreement or schedule, or another form of signed agreement to repay the debt;

(ii) Oral acknowledgment and agreement to repay the debt documented by the lender in the borrower's or endorser's file and confirmed by the lender in a notice to the borrower; or

(iii) A payment made on the loan by the borrower or endorser.

* * * * *

**§ 682.214 [Removed and Reserved]**

■ 29. Section 682.214 is removed and reserved.

■ 30. Section 682.216 is amended by:

■ A. In paragraph (a)(2)(iii), removing the first occurrence of the word ''at'' and adding, in its place, the word ''for''.

■ B. In paragraph (a)(4)(i), removing the second occurrence of the word ''at'' and adding, in its place, the word ''for''.

■ C. In paragraph (c)(1) introductory text, removing the words ''at an educational'' and adding, in their place, the words ''for an educational''.

■ D. In paragraph (c)(1)(iii), removing the final sentence.

■ E. Redesignating paragraphs (c)(2) through (c)(11) as paragraphs (c)(3) through (c)(12), respectively.

■ F. Adding a new paragraph (c)(2).

■ G. In newly redesignated paragraph (c)(4)(ii)(A), removing the words ''at an eligible educational'' and adding, in their place, the words ''for an eligible educational''.

■ H. In newly redesignated paragraph (c)(4)(ii)(B), adding the words ''for an'' immediately before the words ''educational service agency''.

■ I. In newly redesignated paragraph (c)(4)(iii), removing the first occurrence of the word ''at'' and adding, in its place, the word ''for''.

■ J. In newly redesignated paragraph (c)(5)(i), adding the words ''for an'' immediately before the words ''educational service''.

■ K. In newly redesignated paragraph (c)(5)(ii)(A), removing the words ''students at an eligible'' and adding, in their place, the words ''students for an eligible''.

■ L. In newly redesignated paragraph (c)(5)(ii)(B), adding the words ''for an'' immediately before the words ''educational service''.

■ M. In newly redesignated paragraph (c)(5)(iii), removing the first occurrence of the word ''at'' and adding, in its place the word ''for''.

■ N. In newly redesignated paragraph (c)(10), removing the second occurrence of the word ''at'' and adding, in its place, the word ''for''.

■ O. In paragraphs (d)(1) and (d)(2), removing the words and citations ''paragraphs (c)(3)(ii) or (c)(4)(ii)'' and adding, in their place, the words and citations ''paragraph (c)(4)(ii) or (c)(5)(ii)''.

■ P. In the heading of paragraph (e), removing the word ''discharge'' and adding in its place, the word ''forgiveness''.

■ Q. In paragraph (e)(1)(i), removing the citation ''(h)(3)(iii)'' and adding, in its place, the citation ''(h)(4)(iii)''.

■ R. In paragraph (e)(1)(iii), removing the word ''discharge'' and adding, in its place, the word ''forgiveness''.

■ S. Revising paragraphs (f)(2)(i) and (f)(2)(ii).

■ T. In paragraph (f)(2)(iii), removing both occurrences of the word ''discharged'' and adding, in their place, the words ''loan forgiveness''.

■ U. In paragraph (f)(3)(ii), removing both occurrences of the word ''discharge'' and adding, in their place, the words ''loan forgiveness''.

■ V. In paragraph (f)(4), removing both occurrences of the word ''discharge'' and adding, in their place, the words ''loan forgiveness''.

■ W. In paragraph (f)(5), removing the word ''discharge''.

■ X. Revising paragraph (g).

The additions and revisions read as follows:

**§ 682.216 Teacher loan forgiveness program.**

* * * * *

(c) * * *

(2) The Secretary considers all elementary and secondary schools operated by the Bureau of Indian Education (BIE) or operated on Indian reservations by Indian tribal groups under contract with the BIE to qualify as schools serving low-income students.

* * * * *

(f) * * *

(2) * * *

(i) The holder must file a request for payment with the guaranty agency on a teacher loan forgiveness amount no later than 60 days after the receipt, from the borrower, of a completed teacher loan forgiveness application.

(ii) When filing a request for payment on a teacher loan forgiveness, the holder must provide the guaranty agency with the completed loan forgiveness application submitted by the borrower and any required supporting documentation.

* * * * *

(g) *Claims for reimbursement from the Secretary on loans held by guaranty agencies.* In the case of a teacher loan forgiveness applied to a defaulted loan held by the guaranty agency, the Secretary pays the guaranty agency a percentage of the amount forgiven that is equal to the complement of the reinsurance percentage paid on the loan. The payment of up to $5,000, or up to $17,500, may also include interest that accrues on the forgiveness amount during the period from the date on which the guaranty agency received payment from the Secretary on a default claim to the date on which the guaranty agency determines that the borrower is eligible for the teacher loan forgiveness.

* * * * *

**§ 682.300 [Amended]**

■ 31. Section 682.300 is amended by:

■ A. In paragraph (b)(2)(ii) introductory text, removing the words '', except as provided in paragraph (c)(4) of this section''.

■ B. In paragraph (b)(2)(ii)(B), removing the words ''in accordance with § 682.207(b)(1)(ii)(B) and (C)''.

■ C. In paragraph (c)(1), adding the word ''or'' after the punctuation '';''.

■ D. In paragraph (c)(2), removing the punctuation '';'' and adding, in its place, the punctuation ''.''.

■ E. Removing paragraphs (c)(3) and (c)(4).

**§ 682.301 [Amended]**

■ 32. Section 682.301 is amended by removing paragraph (c).

■ 33. Section 682.302 is amended by:

■ A. In paragraph (b)(3) introductory text, adding the words ''and prior to July 1, 2010'' after the date ''1992'' and before the punctuation '',''.

■ B. In paragraph (d)(1)(vi)(B), removing the words ''the loan proceeds disbursed by electronic funds transfer or master check in accordance with § 682.207(b)(1)(ii)(B) and (C)'' and adding, in their place, the words ''The loan proceeds disbursed by electronic funds transfer or master check''.

■ C. In paragraph (d)(2) introductory text, adding the words ''and prior to July 1, 2010'' after the date ''1992'' and before the punctuation '',''.

■ D. In paragraph (e)(1)(i), removing the citation ''§ 682.800'' and adding, in its place, the words ''section 438(e) of the Act''.
■ E. Revising paragraph (f)(3)(viii)(B).
■ F. In paragraph (f)(3)(x)(B)(*3*), removing the citation ''503(c)(3)'' and adding, in its place, the citation ''501(c)(3)''.

The revision reads as follows:

**§ 682.302 Payment of special allowance on FFEL loans.**

* * * * *

(f) * * *

(3) * * *

(viii) * * *

(B) Fees are reasonable and customary for purposes of paragraph (f)(3)(viii) of this section, if they do not exceed the amounts received by the trustee for similar services with regard to similar portfolios of loans of that State or non-profit entity or its related special purpose entity that are not eligible to receive special allowance at the rate established under paragraph (f)(2) of this section, or if they do not exceed an amount as determined by such other method requested by the State or non-profit entity that the Secretary considers reliable.

* * * * *

**§ 682.305 [Amended]**

■ 34. Section 682.305 is amended by:
■ A. In paragraph (a)(3)(ii)(B), by adding the words ''and prior to July 1, 2010'' after the date ''2007'' and before the punctuation ''.''.
■ B. In paragraph (c)(1)(i), removing the words ''originating or''.
■ C. Removing paragraph (c)(1)(ii).
■ D. Redesignating paragraph (c)(1)(iii) as paragraph (c)(1)(ii).
■ E. In paragraph (c)(2)(iv), adding the word ''and'' as the last word in the paragraph, immediately following the punctuation '';''.
■ F. In paragraph (c)(2)(v), removing the final punctuation '';'' and adding, in its place, the punctuation ''.''.
■ G. Removing paragraphs (c)(2)(vi) and (c)(2)(vii).
■ 35. Section 682.400 is amended by revising paragraph (b)(1)(i) to read as follows:

**§ 682.400 Agreements between a guaranty agency and the Secretary.**

* * * * *

(b) * * *

(1) * * *

(i) Borrowers whose Stafford or Consolidation loans are guaranteed by the agency may qualify for interest benefits that are paid to the lender on the borrower's behalf under § 682.301; and

* * * * *

■ 36. Section 682.401 is amended by:
■ A. Removing paragraphs (b)(1), (b)(2), and (b)(3).
■ B. Redesignating paragraph (b)(4) as paragraph (b)(1).
■ C. In newly redesignated paragraph (b)(1) introductory text, removing the citation ''(b)(4)'' and adding, in its place, the citation ''(b)(1)''.
■ D. Removing paragraphs (b)(5) and (b)(6).
■ E. Redesignating paragraph (b)(7) as paragraph (b)(2).
■ F. Removing paragraphs (b)(8) and (b)(9).
■ G. Redesignating paragraphs (b)(10) and (b)(11) as paragraphs (b)(3) and (b)(4), respectively.
■ H. In newly redesignated paragraph (b)(3)(i) introductory text, removing the words ''SLS or PLUS loans refinanced under § 682.209(e) or (f)'' and adding, in their place, the words ''refinanced SLS or PLUS loans''.
■ I. In newly redesignated paragraph (b)(3)(iv)(C), adding the words ''and prior to July 1, 2010'' between the date ''2006'' and the punctuation ''.''.
■ J. In newly redesignated paragraph (b)(3)(vi)(B)(*4*), removing the words ''in accordance with § 682.207(b)(1)(ii)(B) and (C)''.
■ K. Removing paragraphs (b)(12) and (b)(13).
■ L. Redesignating paragraphs (b)(14) through (b)(29) as paragraphs (b)(5) through (b)(20), respectively.
■ M. In newly redesignated paragraph (b)(6), adding the words ''and N'' between the letter ''M'' and the word ''of''.
■ N. In newly redesignated paragraph (b)(8)(i) introductory text, removing the citation ''(b)(17)(iii)'' and adding, in its place, the citation ''(b)(8)(iii)''.
■ O. In newly redesignated paragraph (b)(8)(iii), removing the citation ''(b)(17)(i)'' and adding, in its place, the citation ''(b)(8)(i)''.
■ P. In newly redesignated paragraph (b)(10)(i)(B), removing the words ''School and lender'' and adding, in their place, the word ''Lender''.
■ Q. In newly redesignated paragraph (b)(10)(i)(C), removing the words ''school and''.
■ R. In newly redesignated paragraph (b)(10)(i)(D), removing the words ''school or''.
■ S. In newly redesignated paragraph (b)(11) introductory text, adding the word ''of'' between the words ''days'' and ''any''.
■ T. In newly redesignated paragraph (b)(14)(ii), removing the citation ''(b)(23)(i)'' and adding, in its place, the citation ''(b)(14)(i)''.
■ U. In newly redesignated paragraph (b)(18)(i), removing the word ''Federal'' and adding, in its place, the word ''Direct''.
■ V. Removing newly redesignated paragraph (b)(18)(ii).
■ W. Further redesignating newly redesignated paragraphs (b)(18)(iii) through (v) as paragraphs (b)(18)(ii) through (iv), respectively.
■ X. Revising newly redesignated paragraph (b)(18)(iii).
■ Y. Removing paragraph (c).
■ Z. Redesignating paragraph (d) as paragraph (c).
■ AA. In newly redesignated paragraph (c)(2), removing the citation ''(d)(1)'' and adding, in its place, the citation ''(c)(1)''.
■ BB. In newly redesignated paragraph (c)(3), adding a final sentence to the end of the paragraph.
■ CC. Removing newly redesignated paragraph (c)(4).
■ DD. Further redesignating newly redesignated paragraphs (c)(5) and (c)(6) as paragraphs (c)(4) and (c)(5), respectively.
■ EE. Removing paragraph (e).
■ FF. Redesignating paragraphs (f) and (g) as paragraphs (d) and (e), respectively.
■ GG. In newly redesignated paragraph (d)(2), removing the word ''HEA'' and adding, in its place, the word ''Act''.
■ HH. In newly redesignated paragraph (e)(1), removing the word ''participate'' and adding, in its place, the word ''participated''.
■ II. In newly redesignated paragraph (e)(2), removing the citation ''(g)(1)'' and adding, in its place, the citation ''(e)(1)''.
■ JJ. In newly redesignated paragraph (e)(4), removing the citation ''(g)(1)'' and adding, in its place, the citation ''(e)(1)''.

The revision and addition read as follows:

**§ 682.401 Basic program agreement.**

* * * * *

(b) * * *

(18) * * *

(iii) On or after October 1, 2009, when returning proceeds to the Secretary from the consolidation of a defaulted loan that is paid off with excess consolidation proceeds as defined in paragraph (b)(18)(iv) of this section, a guaranty agency must remit the entire amount of collection costs repaid through the consolidation loan.

* * * * *

(c) * * *

(3) * * * Each loan made under an MPN is enforceable in accordance with the terms of the MPN and is eligible for claim payment based on a true and exact copy of such MPN.

* * * * *

■ 37. Section 682.402 is amended by:
■ A. In paragraph (a)(5)(ii), removing the words ''credit bureau'' and adding,

in their place, the words ''consumer reporting agency''.

■ B. Revising paragraph (d)(1)(i).

■ C. In paragraph (d)(3)(ii)(B), by removing the figure ''90'' and adding, in its place, the figure ''120''.

■ D. In paragraphs (d)(6)(i)(C), (d)(6)(i)(D) introductory text, (d)(6)(i)(D)(*2*), (d)(6)(i)(H)(*3*), (d)(6)(ii)(B) introductory text, (d)(6)(ii)(B)(*2*), and (d)(6)(ii)(F)(*3*), by removing the figure ''90'' each time it appears and adding, in its place, the figure ''120''.

■ E. In paragraph (d)(7)(iv), removing the words ''credit bureaus'' and adding, in their place, the words ''consumer reporting agencies''.

■ F. In paragraph (d)(8)(i), removing the citation ''34 CFR 685.213'' and adding, in its place, the citation ''34 CFR 685.214''.

■ G. In paragraph (e)(3) introductory text, removing the citation ''(e)(14)'' and adding, in its place, the citation ''(e)(15)''.

■ H. In paragraph (e)(3)(v)(C), removing the word ''identify'' and adding, in its place, the word ''identity''.

■ I. In paragraph (e)(12)(v) introductory text, removing the words ''credit bureaus'' and adding, in their place, the words ''consumer reporting agencies''.

■ J. In paragraphs (l)(1), (l)(2)(ii), and (l)(3)(i), adding the words ''or Federal default fees'' between the word ''premiums'' and the punctuation '')''.

■ K. In paragraph (n)(2), adding the words ''or Federal default fees'' between the word ''premiums'' and the punctuation '')''.

The revision reads as follows:

**§ 682.402 Death, disability, closed school, false certification, unpaid refunds, and bankruptcy payments.**

* * * * *

(d) * * *

(1) * * *

(i) The Secretary reimburses the holder of a loan received by a borrower on or after January 1, 1986, and discharges the borrower's obligation with respect to the loan in accordance with the provisions of paragraph (d) of this section, if the borrower (or the student for whom a parent received a PLUS loan) could not complete the program of study for which the loan was intended because the school at which the borrower (or student) was enrolled closed, or the borrower (or student) withdrew from the school not more than 120 days prior to the date the school closed. The Secretary may extend the 120-day period if the Secretary determines that exceptional circumstances related to a school's closing justify an extension. Exceptional circumstances for this purpose may include, but are not limited to: the school's loss of accreditation; the school's discontinuation of the majority of its academic programs; action by the State to revoke the school's license to operate or award academic credentials in the State; or a finding by a State or Federal government agency that the school violated State or Federal law.

* * * * *

**§ 682.403 [Removed and Reserved]**

■ 38. Section 682.403 is removed and reserved.

■ 39. Section 682.404 is amended by:

■ A. Revising paragraph (b)(3)(ii).

■ B. In paragraph (b)(3)(iii), adding the word ''or'' after the punctuation '';''.

■ C. In paragraph (b)(4)(ii)(G)(*2*), removing the words ''is consistent with § 682.509(a)(1)'' and adding, in their place, the words ''addresses the condition identified in paragraph (b)(3)(ii) of this section''.

■ D. In paragraph (d)(1) introductory text, removing the words ''made under § 682.209(e), (f) and (h),'' and adding, in their place the words ''that were refinanced pursuant to section 428B(e)(2) and (3) of the Act,''.

■ E. Removing paragraph (h).

■ F. Redesignating paragraphs (i) through (l) as paragraphs (h) through (k), respectively.

■ G. In newly redesignated paragraph (j)(3)(i), removing the parenthetical ''(k)(2)(i)'' and adding, in its place, the parenthetical ''(j)(2)(i)''.

■ H. In newly redesignated paragraph (j)(3)(ii), removing the citation ''(k)(2)(ii)'' and adding, in its place, the citation ''(j)(2)(ii)''.

The revision reads as follows:

**§ 682.404 Federal reinsurance agreement.**

* * * * *

(b) * * *

(3) * * *

(ii) Under a policy established by the agency that addresses instances in which, for a non-school originated loan, a lender learns that the school terminated its teaching activities while a student was enrolled during the academic period covered by the loan;

* * * * *

■ 40. Section 682.405 is amended by:

■ A. In the introductory text of paragraph (a)(2)(i), adding the word ''qualifying'' between the words ''ten'' and ''payments''.

■ B. Revising the introductory text of paragraph (a)(2)(i)(A).

■ C. Redesignating paragraph (a)(3) as paragraph (a)(4).

■ D. Adding a new paragraph (a)(3).

■ E. Revising paragraph (b)(1).

The revisions and addition read as follows:

**§ 682.405 Loan rehabilitation agreement.**

(a) * * *

(2) * * *

(i) * * *

(A) A qualifying payment is—

* * * * *

(3)(i) If a borrower's loan is being collected by administrative wage garnishment while the borrower is also making monthly payments on the same loan under a loan rehabilitation agreement, the guaranty agency must continue collecting the loan by administrative wage garnishment until the borrower makes five qualifying monthly payments under the rehabilitation agreement, unless the guaranty agency is otherwise precluded from doing so under § 682.410(b)(9).

(ii) After the borrower makes the fifth qualifying monthly payment, the guaranty agency must, unless otherwise directed by the borrower, suspend the garnishment order issued to the borrower's employer.

(iii) A borrower may only obtain the benefit of a suspension of administrative wage garnishment while also attempting to rehabilitate a defaulted loan once.

* * * * *

(b) * * *

(1) A borrower may request rehabilitation of the borrower's defaulted loan held by the guaranty agency. In order to be eligible for rehabilitation of the loan, the borrower must voluntarily make at least 9 of the 10 payments required under a monthly repayment agreement.

(i) Each payment must be—

(A) Made voluntarily;

(B) For the full amount required;

(C) Received within 20 days of the due date for the payment; and

(D) Reasonable and affordable.

(ii) All 9 payments must be received within a 10-month period that begins with the month in which the first required due date falls and ends with the ninth consecutive calendar month following that month.

(iii) The guaranty agency initially considers the borrower's reasonable and affordable payment amount to be an amount equal to 15 percent of the amount by which the borrower's Adjusted Gross Income (AGI) exceeds 150 percent of the poverty guideline amount applicable to the borrower's family size and State, divided by 12, except that if this amount is less than $5, the borrower's monthly rehabilitation payment is $5.

(iv) The guaranty agency or its agents may calculate the payment amount based on information provided orally by the borrower or the borrower's representative and provide the borrower

with a rehabilitation agreement using that amount. The guaranty agency must request documentation from the borrower to confirm the borrower's AGI and family size. If the borrower does not provide the guaranty agency or its agents with any documentation requested by the guaranty agency to calculate or confirm the reasonable and affordable payment amount, within a reasonable time deadline set by the guaranty agency or its agent, the rehabilitation agreement provided is null and void.

(v) The reasonable and affordable payment amount calculated under this section must not be—

(A) A required minimum loan payment amount (e.g., $50) if the agency determines that a smaller amount is reasonable and affordable;

(B) A percentage of the borrower's total loan balance; or

(C) Based on other criteria unrelated to the borrower's total financial circumstances.

(vi) Within 15 business days of its determination of the borrower's loan rehabilitation payment amount, the guaranty agency must provide the borrower with a written rehabilitation agreement which includes the borrower's payment amount calculated under paragraph (b)(1)(iii), a prominent statement that the borrower may object orally or in writing to the payment amount, with the method and timeframe for raising such an objection, and an explanation of any other terms and conditions applicable to the required series of payments that must be made before the borrower's account can be considered for repurchase by an eligible lender (i.e., rehabilitated). To accept the agreement, the borrower must sign and return the agreement or accept the agreement electronically under a process provided by the agency. The agency may not impose any other conditions unrelated to the amount or timing of the rehabilitation payments in the rehabilitation agreement. The written rehabilitation agreement must inform the borrower—

(A) Of the effects of having the loans rehabilitated (e.g., removal of the record of default from the borrower's credit history and return to normal repayment);

(B) Of the amount of any collection costs to be added to the unpaid principal of the loan when the loan is sold to an eligible lender, which may not exceed 18.5 percent of the unpaid principal and accrued interest on the loan at the time of the sale; and

(C) That the rehabilitation agreement is null and void if the borrower fails to provide the documentation required to confirm the monthly payment calculated under paragraph (b)(1)(iii) of this section.

(vii) If the borrower objects to the monthly payment amount determined under paragraph (b)(1)(iii) of this section, the guaranty agency or its agents must recalculate the payment amount based solely on information provided on a form approved by the Secretary and, if requested, supporting documentation from the borrower and other sources, and must consider—

(A) The borrower's, and if applicable, the spouse's current disposable income, including public assistance payments, and other income received by the borrower and the spouse, such as welfare benefits, Social Security benefits, Supplemental Security Income, and workers' compensation. Spousal income is not considered if the spouse does not contribute to the borrower's household income;

(B) Family size as defined in § 682.215(a)(3); and

(C) Reasonable and necessary expenses, which include—

(*1*) Food;

(*2*) Housing;

(*3*) Utilities;

(*4*) Basic communication expenses;

(*5*) Necessary medical and dental costs;

(*6*) Necessary insurance costs;

(*7*) Transportation costs;

(*8*) Dependent care and other work-related expenses;

(*9*) Legally required child and spousal support;

(*10*) Other title IV and non-title IV student loan payments; and

(*11*) Other expenses approved by the Secretary.

(viii) The guaranty agency must provide the borrower with a new written rehabilitation agreement confirming the borrower's recalculated reasonable and affordable payment amount within the timeframe specified in paragraph (b)(1)(vii) of this section. To accept the agreement, the borrower must sign and return the agreement or accept the agreement electronically under a process provided by the agency.

(ix) The agency must include any payment made under § 682.401(b)(1) in determining whether the 9 out of 10 payments required under paragraph (b)(1) of this section have been made.

(x) A borrower may request that the monthly payment amount be adjusted due to a change in the borrower's total financial circumstances only upon providing the documentation specified in paragraph (b)(1)(vii) of this section.

(xi) During the rehabilitation period, the guaranty agency must limit contact with the borrower on the loan being rehabilitated to collection activities that are required by law or regulation and to communications that support the rehabilitation.

* * * * *

**§ 682.406 [Amended]**

■ 41. Section 682.406 is amended by:

■ A. In paragraph (a)(2)(ii), removing the words ''in accordance with § 682.207(b)(1)(ii)(B) and (C)''.

■ B. In paragraph (a)(12)(iv), adding the words ''and prior to July 1, 2010'' after the date ''1999'' and before the punctuation ''.''.

**§ 682.407 [Amended]**

■ 42. Section 682.407(e)(1)(ii) is amended by removing the figure ''24'' the first time it appears and adding, in its place, the figure ''72''.

**§ 682.408 [Removed and Reserved]**

■ 43. Section 682.408 is removed and reserved.

**§ 682.409 [Amended]**

■ 44. Section 682.409 is amended by:

■ A. In paragraph (a)(2)(i), removing the citation ''§ 682.401(b)(4)'' and adding, in its place, the citation ''§ 682.401(b)(1)''.

■ B. In paragraph (a)(3)(i)(B), removing the citation ''§ 682.401(b)(4)'' and adding, in its place, the citation ''§ 682.401(b)(1)''.

■ 45. Section 682.410 is amended by:

■ A. Revising the introductory text of paragraph (a)(2).

■ B. In paragraph (a)(2)(ii) introductory text, removing the word ''preclaims'' and adding, in its place, the words ''default aversion''.

■ C. In paragraph (b)(2) introductory text, removing the citation ''§§ 682.401(b)(27) and 682.405(b)(1)(iv)'' and adding, in its place, the citation ''§§ 682.401(b)(18)(i) and 682.405(b)(1)(iv)(B)''.

■ D. In paragraph (b)(5)(i) introductory text, removing the citation ''(b)(6)(v)'' and adding, in its place, the citation ''(b)(6)(ii)''.

■ E. In paragraph (b)(7)(i), removing the words ''conditions described in § 682.509(a)(1)'' and adding, in their place, the words ''condition described in § 682.404(b)(3)(ii)''.

■ F. In paragraph (b)(7)(ii)(A), removing the words ''credit bureau'' and adding, in their place, the words ''consumer reporting agency''.

■ G. Revising paragraph (b)(9).

■ H. In paragraph (c)(1)(i)(A) introductory text, removing the words ''made or''.

■ I. In paragraph (c)(1)(i)(A)(*1*), removing the words ''in that year''.

■ J. In paragraph (c)(1)(i)(A)(*2*), removing the words ''in that year''.

■ K. Revising paragraph (c)(1)(i)(C).
■ L. In paragraph (c)(1)(ii), removing the citation ''(c)(1)(A)–(C)'' and adding, in its place, the citation ''(c)(1)(i)(A)–(C)''.
■ M. Removing paragraph (c)(4).
■ N. Redesignating paragraphs (c)(5) through (c)(11) as paragraphs (c)(4) through (c)(10), respectively.
■ O. In newly redesignated paragraphs (c)(8)(i) and (c)(8)(ii), adding the words ''title IV eligibility of a'' between the words ''or'' and ''school''.
■ P. Revising newly redesignated paragraph (c)(10) introductory text.

The revisions read as follows:

**§ 682.410 Fiscal, administrative, and enforcement requirements.**

(a) * * *

(2) *Uses of reserve fund assets.* A guaranty agency may use the assets of the reserve fund established under paragraph (a)(1) of this section to pay only—

* * * * *

(b) * * *

(9) *Administrative garnishment.* (i) If a guaranty agency decides to garnish the disposable pay of a borrower who is not making payments on a loan held by the agency, on which the Secretary has paid a reinsurance claim, it must do so in accordance with the following procedures:

(A) At least 30 days before the initiation of garnishment proceedings, the guaranty agency must mail to the borrower's last known address, a written notice described in paragraph (b)(9)(i)(B) of this section.

(B) The notice must describe—

(*1*) The nature and amount of the debt;

(*2*) The intention of the agency to collect the debt through deductions from disposable pay;

(*3*) An explanation of the borrower's rights;

(*4*) The deadlines by which a borrower must exercise those rights; and

(*5*) The consequences of failure to exercise those rights in a timely manner.

(C) The guaranty agency must offer the borrower an opportunity to inspect and copy agency records related to the debt.

(D) The guaranty agency must offer the borrower an opportunity to enter into a written repayment agreement with the agency under terms agreeable to the agency.

(E)(*1*) The guaranty agency must offer the borrower an opportunity for a hearing in accordance with paragraphs (b)(9)(i)(F) through (J) of this section and other guidance provided by the Secretary, for any objection regarding the existence, amount, or enforceability of the debt, and any objection that withholding from the borrower's disposable pay in the amount or at the rate proposed in the notice would cause financial hardship to the borrower.

(*2*) The borrower must request a hearing in writing. At the borrower's option, the hearing may be oral or written. The time and location of the hearing is established by the guaranty agency. An oral hearing may, at the borrower's option, be conducted either in-person or by telephone conference. The agency notifies the borrower of the process for arranging the time and location of an oral hearing. All telephonic charges are the responsibility of the agency. All travel expenses incurred by the borrower in connection with an in-person oral hearing are the responsibility of the borrower.

(F)(*1*) If the borrower submits a written request for a hearing on the existence, amount, or enforceability of the debt—

(*i*) The guaranty agency must provide evidence of the existence of the debt. If the agency provides evidence of the existence of the debt, the borrower must prove by the preponderance of the evidence that no debt exists, the debt is not enforceable under applicable law, the amount the guaranty agency claims the borrower owes is incorrect, including that any amount of collection costs assessed to the borrower exceeds the limits established under § 682.410(b)(2), or the debt is not delinquent; and

(*ii*) The borrower may raise any of the objections described in paragraph (b)(9)(i)(F)(*1*)(*i*) of this section not raised in the written request, but must do so before a hearing is completed. For purposes of this paragraph, a hearing is completed when the record is closed and the hearing official notifies the parties that no additional evidence or objections will be accepted.

(*2*) If the borrower submits a written request for a hearing on an objection that withholding in the amount or at the rate that the agency proposed in its notice would cause financial hardship to the borrower and the borrower's spouse and dependents—

(*i*) The borrower bears the burden of proving the claim of financial hardship by a preponderance of the credible evidence by providing credible documentation that the amount of wages proposed in the notice would leave the borrower unable to meet basic living expenses of the borrower, the borrower's spouse, and the borrower's dependents. The documentation must show the amount of the costs incurred for basic living expenses and the income available from any source to meet those expenses;

(*ii*) The borrower's claim of financial hardship must be evaluated by comparing the amounts that the borrower proves are being incurred for basic living expenses against the amounts spent for basic living expenses by families of the same size as the borrower's. For the purposes of this section, the standards published by the Internal Revenue Service under 26 U.S.C. 7122(d)(2) (the ''Collection Financial Standards'') establish the average amounts spent for basic living expenses for families of the same size as the borrower's family;

(*iii*) The amount that the borrower proves is incurred for a type of basic living expense is considered to be reasonable to the extent that the amount does not exceed the amount spent for that expense by families of the same size according to the Collection Financial Standards. If the borrower claims an amount for any basic living expense that exceeds the amount in the Collection Financial Standards, the borrower must prove that the amount claimed is reasonable and necessary;

(*iv*) If the borrower's objection to the rate or amount proposed in the notice is upheld in part, the garnishment must be ordered at a lesser rate or amount, that is determined will allow the borrower to meet basic living expenses proven to be reasonable and necessary. If this financial hardship determination is made after a garnishment order is already in effect, the guaranty agency must notify the borrower's employer of any change required by the determination in the amount to be withheld or the rate of withholding under that order; and

(*v*) A determination by a hearing official that financial hardship would result from garnishment is effective for a period not longer than six months after the date of the finding. After this period, the guaranty agency may require the borrower to submit current information regarding the borrower's family income and living expenses. If the borrower fails to submit current information within 30 days of this request, or the guaranty agency concludes from a review of the available evidence that garnishment should now begin or the rate or the amount of an outstanding withholding should be increased, the guaranty agency must notify the borrower and provide the borrower with an opportunity to contest the determination and obtain a hearing on the objection under the procedures in paragraph (b)(9)(i) of this section.

(G) If the borrower's written request for a hearing is received by the guaranty agency on or before the 30th day following the date of the notice

described in paragraph (b)(9)(i)(B) of this section, the guaranty agency may not issue a withholding order until the borrower has been provided the requested hearing and a decision has been rendered. The guaranty agency must provide a hearing to the borrower in sufficient time to permit a decision, in accordance with the procedures that the agency may prescribe, to be rendered within 60 days.

(H) If the borrower's written request for a hearing is received by the guaranty agency after the 30th day following the date of the notice described in paragraph (b)(9)(i)(B) of this section, the guaranty agency must provide a hearing to the borrower in sufficient time that a decision, in accordance with the procedures that the agency may prescribe, may be rendered within 60 days, but may not delay issuance of a withholding order unless the agency determines that the delay in filing the request was caused by factors over which the borrower had no control, or the agency receives information that the agency believes justifies a delay or cancellation of the withholding order. If a decision is not rendered within 60 days following receipt of a borrower's written request for a hearing, the guaranty agency must suspend the order beginning on the 61st day after the hearing request was received until a hearing is provided and a decision is rendered.

(I) The hearing official appointed by the agency to conduct the hearing may be any qualified individual, including an administrative law judge. Under no circumstance may the hearing official be under the supervision or control of the head of the guaranty agency or of a third-party servicer or collection contractor employed by the agency. Payment of compensation by the guaranty agency, third-party servicer, or collection contractor employed by the agency to the hearing official for service as a hearing official does not constitute impermissible supervision or control under this paragraph. The guaranty agency must ensure that, except as needed to arrange for administrative matters pertaining to the hearing, including the type of hearing requested by the borrower, the time, place, and manner of conducting an oral hearing, and post-hearing matters such as issuance of a hearing decision, all oral communications between the hearing official and any representative of the guaranty agency or with the borrower are made within the hearing of the other party, and that copies of any written communication with either party are promptly provided to the other party. This paragraph does not preclude a hearing in the absence of one of the parties if the borrower is given proper notice of the hearing, both parties have agreed on the time, place, and manner of the hearing, and one of the parties fails to attend.

(J) The hearing official must conduct any hearing as an informal proceeding, require witnesses in an oral hearing to testify under oath or affirmation, and maintain a summary record of any hearing. The hearing official must issue a final written decision at the earliest practicable date, but not later than 60 days after the guaranty agency's receipt of the borrower's hearing request. However—

(*1*) The borrower may request an extension of that deadline for a reasonable period, as determined by the hearing official, for the purpose of submitting additional evidence or raising a new objection described in paragraph (b)(9)(i)(F)(*1*)(*ii*) of this section; and

(*2*) The agency may request, and the hearing official must grant, a reasonable extension of time sufficient to enable the guaranty agency to evaluate and respond to any such additional evidence or any objections raised pursuant to paragraph (b)(9)(i)(F)(*1*)(*ii*) of this section.

(K) An employer served with a garnishment order from the guaranty agency with respect to a borrower whose wages are not then subject to a withholding order of any kind must deduct and pay to the agency from a borrower's disposable pay an amount that does not exceed the smallest of—

(*1*) The amount specified in the guaranty agency order;

(*2*) The amount permitted by section 488A(a)(1) of the Act, which is 15 percent of the borrower's disposable pay; or

(*3*) The amount permitted by 15 U.S.C. 1673(a)(2), which is the amount by which the borrower's disposable pay exceeds 30 times the minimum wage.

(L) If a borrower's pay is subject to more than one garnishment order—

(*1*) Unless other Federal law requires a different priority, the employer must pay the agency the amount calculated under paragraph (b)(9)(i)(K) of this section before the employer complies with any later garnishment orders, except a family support withholding order;

(*2*) If an employer is withholding from a borrower's pay based on a garnishment order served on the employer before the guaranty agency's order, or if a withholding order for family support is served on an employer at any time, the employer must comply with the agency's garnishment order by withholding an amount that is the lesser of—

(*i*) The amount specified in the guaranty agency order; or

(*ii*) The amount calculated under paragraph (b)(9)(i)(L)(*3*) of this section less the amount or amounts withheld under the garnishment order or orders that have priority over the agency's order; and

(*3*) The cumulative withholding for all garnishment orders issued by guaranty agencies may not exceed, for an individual borrower, the amount permitted by 15 U.S.C. 1673, which is the lesser of 25 percent of the borrower's disposable pay or the amount by which the borrower's disposable pay exceeds 30 times the minimum wage. If a borrower owes debts to one or more guaranty agencies, each agency may issue a garnishment order to enforce each of those debts, but no single agency may order a total amount exceeding 15 percent of the disposable pay of a borrower to be withheld. The employer must honor these orders as provided in paragraphs (b)(9)(i)(L)(*1*) and (*2*) of this section.

(M) Notwithstanding paragraphs (b)(9)(i)(K) and (L) of this section, an employer may withhold and pay a greater amount than required under the order if the borrower gives the employer written consent.

(N) A borrower may, at any time, raise an objection to the amount or the rate of withholding specified in the guaranty agency's order to the borrower's employer on the ground of financial hardship. However, the guaranty agency is not required to consider such an objection and provide the borrower with a hearing until at least six months after the agency issued the most recent garnishment order, either one for which the borrower did not request a hearing or one that was issued after a hardship-related hearing determination. The agency may provide a hearing in extraordinary circumstances earlier than six months if the borrower's request for review shows that the borrower's financial circumstances have substantially changed after the garnishment notice because of an event such as injury, divorce, or catastrophic illness.

(O) A garnishment order is effective until the guaranty agency rescinds the order or the agency has fully recovered the amounts owed by the borrower, including interest, late fees, and collections costs. If an employer is unable to honor a garnishment order because the amount available for garnishment is insufficient to pay any portion of the amount stated in the order, the employer must notify the

agency and comply with the order when sufficient disposable pay is available. Upon full recovery of the debt, the agency must send the borrower's employer notification to stop wage withholding.

(P) The guaranty agency must sue any employer for any amount that the employer, after receipt of the withholding order provided by the agency under paragraph (b)(9)(i)(R) of this section, fails to withhold from wages owed and payable to an employee under the employer's normal pay and disbursement cycle.

(Q) The guaranty agency may not garnish the wages of a borrower whom it knows has been involuntarily separated from employment until the borrower has been reemployed continuously for at least 12 months. The borrower has the burden of informing the guaranty agency of the circumstances surrounding the borrower's involuntary separation from employment.

(R) Unless the guaranty agency receives information that the agency believes justifies a delay or cancellation of the withholding order, it must send a withholding order to the employer within 20 days after the borrower fails to make a timely request for a hearing, or, if a timely request for a hearing is made by the borrower, within 20 days after a final decision is made by the agency to proceed with garnishment.

(S) The notice given to the employer under paragraph (b)(9)(i)(R) of this section must contain only the information as may be necessary for the employer to comply with the withholding order and to ensure proper credit for payments received. At a minimum, the notice given to the employer includes the borrower's name, address, and Social Security Number, as well as instructions for withholding and information as to where the employer must send payments.

(T)(*1*) A guaranty agency may use a third-party servicer or collection contractor to perform administrative activities associated with administrative wage garnishment, but may not allow such a party to conduct required hearings or to determine that a withholding order is to be issued. Subject to the limitations of paragraphs (b)(9)(i)(T)(*2*) and (*3*) of this section, administrative activities associated with administrative wage garnishment may include but are not limited to—

(*i*) Identifying to the agency suitable candidates for wage garnishment pursuant to agency standards;

(*ii*) Obtaining employment information for the purposes of garnishment;

(*iii*) Sending candidates selected for garnishment by the agency notices prescribed by the agency;

(*iv*) Negotiating alternative repayment arrangements with borrowers;

(*v*) Responding to inquiries from notified borrowers;

(*vi*) Receiving garnishment payments on behalf of the agency;

(*vii*) Arranging for the retention of hearing officials and for the conduct of hearings on behalf of the agency;

(*viii*) Providing information to borrowers or hearing officials on the process or conduct of hearings; and

(*ix*) Sending garnishment orders and other communications to employers on behalf of the agency.

(*2*) Only an authorized official of the agency may determine that an individual withholding order is to be issued. The guarantor must record the official's determination for each order it issues, including any order which it causes to be prepared or mailed by a third-party servicer or collection contractor. The guarantor must evidence the official's approval, either by including the official's signature on the order or, if the agency uses a form of withholding order that does not provide for execution by signature, by retaining in the agency's records the identity of the approving official, the date of the approval, the amount or rate of the order, the name and address of the employer to whom the order was issued, and the debt for which the order was issued.

(*3*) The withholding order must identify the guaranty agency as the holder of the debt, as the issuer of the order, and as the sole party legally authorized to issue the withholding order. If a guaranty agency uses a third-party servicer or collection contractor to prepare and mail a withholding order that includes the name of the servicer or contractor that prepared or mailed the order, the guaranty agency must also ensure that the order contains no captions or representations that the servicer or contractor is the party that issued, or was empowered by Federal law or by the agency to issue, the withholding order.

(U) As specified in section 488A(a)(8) of the Act, the borrower may seek judicial relief, including punitive damages, if the employer discharges, refuses to employ, or takes disciplinary action against the borrower due to the issuance of a withholding order.

(V) A guaranty agency is required to suspend a garnishment order when the agency receives a borrower's fifth qualifying payment under a loan rehabilitation agreement with the agency, unless otherwise directed by the borrower, in accordance with § 682.405(a)(3).

(ii) For purposes of paragraph (b)(9) of this section—

(A) ''Borrower'' includes all endorsers on a loan;

(B) ''Day'' means calendar day;

(C) ''Disposable pay'' means that part of a borrower's compensation for personal services, whether or not denominated as wages from an employer, that remains after the deduction of health insurance premiums and any amounts required by law to be withheld, and includes, but is not limited to, salary, bonuses, commissions, or vacation pay. ''Amounts required by law to be withheld'' include amounts for deductions such as Social Security taxes and withholding taxes, but do not include any amount withheld under a court order or other withholding order. All references to an amount of disposable pay refer to disposable pay calculated for a single week;

(D) ''Employer'' means a person or entity that employs the services of another and that pays the latter's wages or salary and includes, but is not limited to, State and local governments, but does not include an agency of the Federal Government;

(E) ''Financial hardship'' means an inability to meet basic living expenses for goods and services necessary for the survival of the borrower and the borrower's spouse and dependents;

(F) ''Garnishment'' means the process of withholding amounts from an employee's disposable pay and paying those amounts to a creditor in satisfaction of a withholding order; and

(G) ''Withholding order'' means any order for withholding or garnishment of pay issued by the guaranty agency and may also be referred to as ''wage garnishment order'' or ''garnishment order.''

* * * * *

(c) * * *

(1) * * *

(i) * * *

(C) Each school that participated in the guaranty agency's program, located in a State for which the guaranty agency is the principal guaranty agency, that has a cohort default rate, as described in subpart M of 34 CFR part 668, that includes FFEL Program loans, for either of the 2 immediately preceding fiscal years, as defined in 34 CFR 668.182, that exceeds 20 percent, unless the school is under a mandate from the Secretary under subpart M of 34 CFR part 668 to take specific default reduction measures or if the total dollar amount of loans entering repayment in

each fiscal year on which the cohort default rate of over 20 percent is based does not exceed $100,000; or

* * * * *

(10) Taking prompt action to protect the rights of borrowers and the Federal fiscal interest respecting loans that the agency has guaranteed when the agency learns that a school that participated in the FFEL Program or a holder of loans participating in the program is experiencing problems that threaten the solvency of the school or holder, including—

* * * * *

**§ 682.411 [Amended]**

■ 46. Section 682.411 is amended by:
■ A. In paragraph (d)(2), removing the words ''all national credit bureaus'' and adding, in their place, the words ''each nationwide consumer reporting agency''.
■ B. In paragraph (f), removing the words ''a national credit bureau'' and adding, in their place, the words ''each nationwide consumer reporting agency''.
■ C. In paragraph (n)(2), removing the words ''a national credit bureau'' and adding, in their place, the words ''each nationwide consumer reporting agency''.
■ D. In paragraph (o)(2), removing the words ''credit bureau'' and adding, in their place, the words ''consumer reporting agency''.

**§ 682.412 [Amended]**

■ 47. Section 682.412(a)(2) is amended by removing the words ''as provided under § 682.301''.

■ 48. Section 682.413 is amended by:
■ A. In paragraph (c)(1)(vi), removing the words ''certification required under § 682.206(f)(1)'' and adding, in their place the words ''required lender verification certification''.
■ B. Revising the first sentence of paragraph (h).

The revision reads as follows:

**§ 682.413 Remedial actions.**

* * * * *

(h) In any action to require repayment of funds or to withhold funds from a guaranty agency, or to limit, suspend, or terminate a guaranty agency based on a violation of section 428(b)(3) of the Act, if the Secretary finds that the guaranty agency provided or offered the prohibited payments or activities, the Secretary applies a rebuttable presumption that the payments or activities were offered or provided to secure applications for FFEL loans or to secure FFEL loan volume. * * *

* * * * *

**§ 682.414 [Amended]**

■ 49. Section 682.414 is amended by:
■ A. In paragraph (a)(1)(ii)(D), removing the words ''credit bureau'' and adding, in their place, the words ''consumer reporting agency''.
■ B. In paragraph (a)(4)(ii)(J), removing the words ''credit bureau'' and adding, in their place, the words ''consumer reporting agency''.
■ C. In paragraph (a)(6)(ii)(D), removing the word ''is'' and adding, in its place, the word ''it''.
■ D. Removing paragraph (b)(2)(i).
■ E. Redesignating paragraphs (b)(2)(ii) through (b)(2)(iv), as (b)(2)(i) through (b)(2)(iii), respectively.
■ F. In paragraph (b)(3)(i), removing the words ''schools and''.
■ G. In paragraph (b)(3)(ii), removing the words ''schools and''.
■ H. In paragraph (b)(3)(iii), removing the words ''school or''.
■ I. In paragraph (c)(2), removing the citation ''§ 682.401(b)(21) and (22)'' and adding, in its place, the citation ''§ 682.401(b)(12) and (13)''.

**§ 682.416 [Amended]**

■ 50. Section 682.416(d)(2) is amended by removing the word ''Title'' and adding, in its place, the word ''title''.

**§ 682.418 [Removed and Reserved]**

■ 51. Section 682.418 is removed and reserved.

**§ 682.419 [Amended]**

■ 52. Section 682.419 is amended by:
■ A. In paragraph (b)(8), removing the words '', in accordance with § 682.420''.
■ B. In paragraph (c)(6), removing the citation ''§ 682.421'' and adding, in its place, the citation ''section 422A(f) of the Act''.

**§ 682.420 [Removed and Reserved]**

■ 53. Section 682.420 is removed and reserved.

**§ 682.421 [Removed and Reserved]**

■ 54. Section 682.421 is removed and reserved.

**§ 682.422 [Removed and Reserved]**

■ 55. Section 682.422 is removed and reserved.

**§ 682.423 [Amended]**

■ 56. Section 682.423 is amended by:
■ A. In the second sentence of paragraph (a), adding the word ''may'' between the words ''that'' and ''have''.
■ B. In paragraph (a), removing the last sentence.

## Subpart E—[Removed and Reserved]

■ 57. Remove and reserve subpart E of part 682.

## Subpart F—Requirements, Standards, and Payments for Schools That Participated in the FFEL Program

■ 58. Revise the heading to subpart F of part 682 to read as set forth above.

**§ 682.601 [Removed and Reserved]**

■ 59. Section 682.601 is removed and reserved.

**§ 682.602 [Removed and Reserved]**

■ 60. Section 682.602 is removed and reserved.

■ 61. Section 682.603 is amended by:
■ A. Revising the section heading.
■ B. In paragraph (b)(3), removing the citation ''§ 682.604(c)'' and adding, in its place, the citation ''section 428G of the Act''.
■ C. Revising paragraphs (g), (h), and (i).
■ D. Revising the first of the two paragraphs that are both designated as paragraph (j).
■ E. Removing the second of the two paragraphs that are both designated as paragraph (j).
■ F. Adding paragraphs (k) and (l).

The revisions and additions read as follows:

**§ 682.603 Certification by a school that participated in the FFEL Program in connection with a loan application.**

* * * * *

(g) The maximum period for which a school may certify a loan application is—

(1) Generally an academic year, as defined by 34 CFR 668.3, except that a guaranty agency may allow a school to use a longer period of time, corresponding to the period to which the agency applies the annual loan limits; or

(2) For a defaulted borrower who has regained eligibility under § 682.401(b)(1), the academic year in which the borrower regained eligibility.

(h) In certifying a Stafford or Unsubsidized Stafford loan amount in accordance with § 682.204—

(1) A program of study must be considered at least one full academic year if—

(i) The number of weeks of instructional time is at least 30 weeks; and

(ii) The number of clock hours is a least 900, the number of semester or trimester hours is at least 24, or the number of quarter hours is at least 36;

(2) A program of study must be considered two-thirds (2/3) of an academic year if—

(i) The number of weeks of instructional time is at least 20 weeks; and

(ii) The number of clock hours is at least 600, the number of semester or

trimester hours is at least 16, or the number of quarter hours is at least 24;

(3) A program of study must be considered one-third (⅓) of an academic year if—

(i) The number of weeks of instructional time is at least 10 weeks; and

(ii) The number of clock hours is at least 300, the number of semester or trimester hours is at least 8, or the number of quarter hours is at least 12; and

(4) In prorating a loan amount for a student enrolled in a program of study with less than a full academic year remaining, the school need not recalculate the amount of the loan if the number of hours for which an eligible student is enrolled changes after the school certifies the loan.

(i)(1) If a school measures academic progress in an educational program in credit hours and uses either standard terms (semesters, trimesters, or quarters) or nonstandard terms that are substantially equal in length, and each term is at least nine weeks of instructional time in length, a student is considered to have completed an academic year and progresses to the next annual loan limit when the academic year calendar period has elapsed.

(2) If a school measures academic progress in an educational program in credit hours and uses nonstandard terms that are not substantially equal in length or each term is not at least nine weeks of instructional time in length, or measures academic progress in credit hours and does not have academic terms, a student is considered to have completed an academic year and progresses to the next annual loan limit at the later of—

(i) The student's completion of the weeks of instructional time in the student's academic year; or

(ii) The date, as determined by the school, that the student has successfully completed the academic coursework in the student's academic year.

(3) If a school measures academic progress in an educational program in clock hours, a student is considered to have completed an academic year and progresses to the next annual loan limit at the later of—

(i) The student's completion of the weeks of instructional time in the student's academic year; or

(ii) The date, as determined by the school, that the student has successfully completed the clock hours in the student's academic year.

(4) For purposes of this section, terms in a loan period are substantially equal in length if no term in the loan period is more than two weeks of instructional time longer than any other term in that loan period.

(j)(1) A school must cease certifying loans based on the exceptions in section 428G(a)(3) of the Act no later than—

(i) 30 days after the date the school receives notification from the Secretary of an FFEL cohort default rate, calculated under subpart M of 34 CFR part 668, that causes the school to no longer meet the qualifications outlined in those paragraphs; or

(ii) October 1, 2002.

(2) A school must cease certifying loans based on the exceptions in section 428G(a)(3) of the Act no later than 30 days after the date the school receives notification from the Secretary of an FFEL cohort default rate, calculated under subpart M of 34 CFR part 668, that causes the school to no longer meet the qualifications outlined in those paragraphs.

(k) A school may not assess the borrower, or the student in the case of a parent PLUS loan, a fee for the completion or certification of any FFEL Program form or information or for providing any information necessary for a student or parent to receive a loan under part B of the Act or any benefits associated with such a loan.

(l) Pursuant to paragraph (b)(3) of this section, a school may not request the disbursement by the lender for loan proceeds earlier than the period specified in 34 CFR 668.167.

* * * * *

■ 62. Section 682.604 is amended by:

■ A. Revising the section heading.

■ B. Removing paragraphs (a), (c), (d), (e), (f), (h), and (i).

■ C. Redesignating paragraph (g) as paragraph (a).

■ D. Removing and reserving paragraph (b).

■ E. Revising newly redesignated paragraph (a)(1).

■ F. Removing newly redesignated paragraph (a)(2)(vi).

■ G. Further redesignating newly redesignated paragraphs (a)(2)(vii) through (a)(2)(xii) as paragraphs (a)(2)(ix) through (a)(2)(xiv), respectively.

■ H. Adding new paragraphs (a)(2)(vi) through (a)(2)(viii).

■ I. Adding new paragraph (a)(5).

The revisions and additions read as follows:

**§ 682.604 Required exit counseling for borrowers.**

(a) * * *

(1) A school must ensure that exit counseling is conducted with each Stafford Loan borrower and graduate or professional student PLUS Loan borrower either in person, by audiovisual presentation, or by interactive electronic means. In each case, the school must ensure that this counseling is conducted shortly before the student borrower ceases at least half-time study at the school, and that an individual with expertise in the title IV programs is reasonably available shortly after the counseling to answer the student borrower's questions. As an alternative, in the case of a student borrower enrolled in a correspondence program or a study-abroad program that the home institution approves for credit, written counseling materials may be provided by mail within 30 days after the student borrower completes the program. If a student borrower withdraws from school without the school's prior knowledge or fails to complete an exit counseling session as required, the school must, within 30 days after learning that the student borrower has withdrawn from school or failed to complete the exit counseling as required, ensure that exit counseling is provided through interactive electronic means, by mailing written counseling materials to the student borrower at the student borrower's last known address, or by sending written counseling materials to an email address provided by the student borrower that is not an email address associated with the school sending the counseling materials.

(2) * * *

(vi) Explain to the borrower the use of a Master Promissory Note;

(vii) Emphasize to the student borrower the seriousness and importance of the repayment obligation the borrower has assumed;

(viii) Emphasize to the student borrower that the full amount of the loan (other than a loan made or originated by the school) must be repaid in full even if the student borrower does not complete the program, does not complete the program within the regular time for program completion, is unable to obtain employment upon completion, or is otherwise dissatisfied with or does not receive the educational or other services that the student borrower purchased from the school;

* * * * *

(5)(i) For students who have received both FFEL Program and Direct Loan Program loans for attendance at a school, the school's compliance with the exit counseling requirements in 34 CFR 685.304(b) satisfies the requirements of this section if the school ensures that the exit counseling also provides the borrower with the information described in paragraphs (a)(2)(i) and (a)(2)(ii) of this section.

(ii) A student's completion of electronic interactive exit counseling offered by the Secretary satisfies the requirements of this section, and for students who have also received Direct Loan Program loans for attendance at the school, the requirements of 34 CFR 685.304(b).

* * * * *

**§ 682.605 [Amended]**

■ 63. Section 682.605 is amended by:

■ A. In paragraph (b), adding the words ''and the Secretary'' between the words ''lender'' and ''the date''.

■ B. In paragraph (c), adding the words ''and the Secretary'' between the word ''lender'' and the punctuation ''\,''.

**§ 682.608 [Removed and Reserved]**

■ 64. Section 682.608 is removed and reserved.

■ 65. Section 682.610 is amended by:

■ A. Revising the section heading.

■ B. Revising paragraph (b)(5).

■ C. Revising paragraph (c).

The revisions read as follows:

**§ 682.610 Administrative and fiscal requirements for schools that participated in the FFEL Program.**

* * * * *

(b) * * *

(5) For loans delivered by electronic funds transfer or master check, a copy of the borrower's required written authorization, if it was not provided in the loan application or MPN, to deliver the initial and subsequent disbursements of each FFEL Program loan; and

* * * * *

(c) *Enrollment reporting process.* (1) Upon receipt of an enrollment report from the Secretary, a school must update all information included in the report and return the report to the Secretary—

(i) In the manner and format prescribed by the Secretary; and

(ii) Within the timeframe specified by the Secretary.

(2) Unless it expects to submit its next updated enrollment report to the Secretary within the next 60 days, a school must notify the Secretary within 30 days after the date that the school discovers that—

(i) A loan under title IV of the Act was made to or on behalf of a student who was enrolled or accepted for enrollment at the school, and the student has ceased to be enrolled on at least a half-time basis or failed to enroll on at least a half-time basis for the period for which the loan was intended; or

(ii) A student who is enrolled at the school and who received a loan under title IV of the Act has changed his or her permanent address.

* * * * *

## Subpart G—Limitation, Suspension, or Termination of Lender or Third-Party Servicer Eligibility and Disqualification of Lenders

■ 66. The heading of subpart G of part 682 is revised to read as set forth above.

**§ 682.700 [Amended]**

■ 67. Section 682.700 is amended by:

■ A. In paragraph (a), removing the words ''or school'' and the word and citation ''and (h)(3)'' in the final sentence.

■ B. In paragraph (b)(1)(ii), adding the word ''or'' after the punctuation ''\;''.

■ C. Removing paragraph (b)(2).

■ D. Redesignating paragraph (b)(3) as paragraph (b)(2).

■ E. In paragraph (c), removing the words ''or schools''.

■ 68. Section 682.701 is amended by revising the definition of ''*Disqualification''* to read as follows:

**§ 682.701 Definitions of terms used in this subpart.**

* * * * *

*Disqualification.* The removal of a lender's eligibility for an indefinite period of time by the Secretary on review of limitation, suspension, or termination action taken against the lender by a guaranty agency.

* * * * *

■ 69. Section 682.702 is amended by:

■ A. In paragraph (a), removing the words ''in paragraph (d) of this section and''.

■ B. Revising paragraph (b)(1).

■ C. Removing paragraph (b)(2).

■ D. Redesignating paragraph (b)(3) as paragraph (b)(2).

■ E. Removing paragraph (d).

The revision reads as follows:

**§ 682.702 Effect on participation.**

* * * * *

(b) * * *

(1) A limit on the number or total amount of loans that a lender may purchase or hold under the FFEL Program; or

* * * * *

**§ 682.704 [Amended]**

■ 70. Section 682.704(a) introductory text is amended, by removing the words ''stop the issuance of guarantee commitments by the Secretary and guarantee agencies and to''.

**§ 682.705 [Amended]**

■ 71. Section 682.705 is amended by:

■ A. In paragraph (a)(1) introductory text, removing the words ''new loan made by the lender or''.

■ B. In paragraph (b)(2)(v), removing the words '', except as provided in paragraph (c)(9) of this section,''.

■ C. Removing paragraph (c).

**§ 682.706 [Amended]**

■ 72. Section 682.706 is amended by removing paragraph (d).

■ 73. Section 682.709 is amended by adding paragraph (d) to read as follows:

**§ 682.709 Reimbursements, refunds, and offsets.**

* * * * *

(d) In any action under this part based on a violation of the prohibitions in section 435(d)(5) of the Act, if the Secretary, the designated Department official, or the hearing official finds that the lender provided or offered the payments or activities described in paragraph (5)(i) of the definition of ''lender'' in § 682.200(b), the Secretary or the official applies a rebuttable presumption that the payments or activities were offered or provided to secure applications for FFEL loans. To reverse the presumption, the lender must present evidence that the activities or payments were provided for a reason unrelated to securing applications for FFEL loans or securing FFEL loan volume.

* * * * *

**§ 682.711 [Amended]**

■ 74. Section 682.711 is amended by:

■ A. Removing paragraph (c).

■ B. Redesignating paragraphs (d) and (e) as paragraphs (c) and (d), respectively.

■ C. In newly redesignated paragraph (d)(2), removing the citation ''(d)(3)'' and adding, in its place, the citation ''(c)(3)''.

■ D. In newly redesignated paragraph (d)(2), removing the citation ''(e)(1)'' and adding, in its place, the citation ''(d)(1)''.

**§ 682.712 [Amended]**

■ 75. Section 682.712 is amended by:

■ A. In paragraph (g)(2), removing the parenthetical ''(j)'' and adding, in its place, the parenthetical ''(i)''.

■ B. In paragraph (h)(2) and in paragraph (h)(3) introductory text, removing the parenthetical ''(j)'' and adding, in its place, the parenthetical ''(i)''.

■ C. Removing paragraph (i).

■ D. Redesignating paragraph (j) as paragraph (i).

**§ 682.713 [Removed and Reserved]**

■ 76. Section 682.713 is removed and reserved.

**Subpart H of Part 682 [Removed and Reserved]**

■ 77. Remove and reserve subpart H of part 682.

**Appendix C to Part 682 [Removed and Reserved]**

■ 78. Appendix C to part 682 is removed and reserved.

**Appendix D to Part 682 [Amended]**

■ 79. In appendix D to part 682, paragraph (3) of the introduction is amended by removing the final citation ''34 CFR 682.401(d)'' and adding, in its place, the citation ''34 CFR 682.401(c)''.

## PART 685—WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM

■ 80. The authority citation for part 685 continues to read as follows:

**Authority:** 20 U.S.C. 1070g, 1087a, *et seq.,* unless otherwise noted.

■ 81. Section 685.100 is amended by:
■ A. Revising paragraph (a).
■ B. In paragraph (b), removing the words ''has been selected by the Secretary to participate'' and adding, in their place, the word ''participates''.
■ C. Revising paragraph (c).
The revisions read as follows:

**§ 685.100 The William D. Ford Federal Direct Loan Program.**

(a) Under the William D. Ford Federal Direct Loan (Direct Loan) Program (formerly known as the Federal Direct Student Loan Program), the Secretary makes loans to enable a student or parent to pay the costs of the student's attendance at a postsecondary school. This part governs the Federal Direct Stafford/Ford Loan Program, the Federal Direct Unsubsidized Stafford/Ford Loan Program, the Federal Direct PLUS Program, and the Federal Direct Consolidation Loan Program. The Secretary makes loans under the following program components:

(1)(i) Federal Direct Stafford/Ford Loan Program (Direct Subsidized Loan Program), which provides loans to undergraduate, graduate, and professional students. Loans made under this program are referred to as Direct Subsidized Loans. Except as provided in paragraph (a)(1)(ii) of this section, the Secretary subsidizes the interest while the borrower is in an in-school, grace, or deferment period. Graduate and professional students are not eligible to receive Direct Subsidized Loans for any period of enrollment beginning on or after July 1, 2012.

(ii) The Secretary does not subsidize the interest that accrues during the grace period on any Direct Subsidized Loan for which the first disbursement is made on or after July 1, 2012 and before July 1, 2014.

(2) Federal Direct Unsubsidized Stafford/Ford Loan Program (Direct Unsubsidized Loan Program), which provides loans to undergraduate, graduate and professional students. Loans made under this program are referred to as Direct Unsubsidized Loans. The borrower is responsible for the interest that accrues during any period.

(3) Federal Direct PLUS Program (Direct PLUS Loan Program), which provides loans to parents of dependent students and to graduate or professional students. Loans made under this program are referred to as Direct PLUS Loans. The borrower is responsible for the interest that accrues during any period.

(4) Federal Direct Consolidation Loan Program (Direct Consolidation Loan Program), which provides loans to borrowers to consolidate certain Federal educational loans. Loans made under this program are referred to as Direct Consolidation Loans.

* * * * *

(c) The Secretary makes a Direct Consolidation Loan only to a borrower who is consolidating at least one loan made under the Direct Loan Program or the Federal Family Education Loan (FFEL) Program.

* * * * *

■ 82. Section 685.101 is revised to read as follows:

**§ 685.101 Participation in the Direct Loan Program.**

(a) Colleges, universities, graduate and professional schools, vocational schools, and proprietary schools may participate in the Direct Loan Program. Participation in the Direct Loan Program enables an eligible student or parent to obtain a loan to pay for the student's cost of attendance at the school.

(b)(1) An eligible undergraduate student who is enrolled at a school participating in the Direct Loan Program may borrow under the Direct Subsidized Loan and Direct Unsubsidized Loan programs.

(2) An eligible graduate or professional student enrolled at a school participating in the Direct Loan Program may borrow under the Direct Subsidized Loan, Direct Unsubsidized Loan, and Direct PLUS Loan programs, except that a graduate or professional student may not borrow under the Direct Subsidized Loan Program for any period of enrollment beginning on or after July 1, 2012.

(3) An eligible parent of an eligible dependent student enrolled at a school participating in the Direct Loan Program may borrow under the Direct PLUS Loan Program.

(Authority: 20 U.S.C. 1087a *et seq.*)

■ 83. Section 685.102 is amended by:
■ A. In paragraph (a)(1) introductory text, removing the words ''subpart A of''.
■ B. In paragraph (a)(1), removing the terms ''Academic Competitiveness Grant (ACG) Program'', ''Disburse'', ''Federal Direct Student Loan Program (Direct Loan Program)'', ''Leveraging Educational Assistance Partnership Program'', ''National Science and Mathematics Access to Retain Talent Grant (National SMART Grant) Program'', and ''State''.
■ C. In paragraph (a)(1), adding the terms ''Disbursement'' and ''William D. Ford Federal Direct Loan (Direct Loan) Program'' in alphabetical order.
■ D. In paragraph (a)(2), adding the terms ''Correspondence course'' and ''State'' in alphabetical order.
■ E. In paragraph (a)(2), removing the term ''Program of study by correspondence''.
■ F. Removing paragraph (a)(3).
■ G. In paragraph (b), adding the definitions of ''Act'', ''Endorser'', ''Federal Insured Student Loan Program'', ''Federal Stafford Loan Program'', ''Guaranty agency'', ''Holder'', ''Lender'', ''Nationwide consumer reporting agency'', ''Substantial gainful activity'', and ''Totally and permanently disabled'', in alphabetical order.
■ H. In paragraph (b), removing the definitions of ''Alternative originator'', ''Consortium'', ''School origination option 1'', ''School origination option 2'', ''Servicer'', and ''Standard origination''.
■ I. In paragraph (b), in the definition of ''Estimated financial assistance'', revising paragraphs (1)(vi) and (2)(i).
■ J. In paragraph (b), in the heading of the definition of ''Federal Direct Consolidation Loan Program:'', adding the words ''(Direct Consolidation Loan Program)'' immediately before the punctuation '':''.
■ K. In paragraph (b), in paragraph (4) of the definition of ''Federal Direct Consolidation Loan Program'', removing the words ''The term'' in the first sentence and adding, in their place, the words ''In the case of a Direct Consolidation Loan that entered repayment prior to July 1, 2006, the term''.
■ L. In paragraph (b), in the heading of the definition of ''Federal Direct PLUS Program:'', adding the words ''(Direct PLUS Loan Program)'' immediately before the punctuation '':''.

■ M. In paragraph (b), revising the definition of ''Federal Direct Stafford/Ford Loan Program''.
■ N. In paragraph (b), in the heading of the definition of ''Federal Direct Unsubsidized Stafford/Ford Loan Program:'', adding the words ''(Direct Unsubsidized Loan Program)'' immediately before the punctuation '':''.
■ O. In paragraph (b), revising the definition of ''Grace period''.
■ P. In paragraph (b), in the definition of ''Master Promissory Note (MPN)'', adding a new paragraph (4).
■ Q. In paragraph (b), revising the definition of ''Satisfactory repayment arrangement''.

The revisions and additions read as follows:

**§ 685.102 Definitions.**

* * * * *

(b) * * *

*Act:* The Higher Education Act of 1965, as amended, 20 U.S.C. 1071 *et seq.*

* * * * *

*Endorser:* An individual who signs a promissory note and agrees to repay the loan in the event that the borrower does not.

*Estimated financial assistance:*

(1) * * *

(vi) The estimated amount of other Federal student financial aid, including but not limited to a Federal Pell Grant, campus-based aid, and the gross amount (including fees) of subsidized and unsubsidized Federal Stafford Loans, Direct Subsidized and Unsubsidized Loans, and Federal PLUS or Direct PLUS Loans.

(2) * * *

(i) Those amounts used to replace the expected family contribution (EFC), including the amounts of any TEACH Grants, unsubsidized Federal Stafford Loans or Direct Unsubsidized Loans, Federal PLUS or Direct PLUS Loans, and non-federal non-need-based loans, including private, state-sponsored, and institutional loans. However, if the sum of the amounts received that are being used to replace the student's EFC exceed the EFC, the excess amount must be treated as estimated financial assistance;

* * * * *

*Federal Direct Stafford/Ford Loan Program (Direct Subsidized Loan Program):* A loan program authorized by title IV, part D of the Act that provides loans to undergraduate, graduate, and professional students attending Direct Loan Program schools, and one of the components of the Direct Loan Program. The Secretary subsidizes the interest while the borrower is in an in-school, grace, or deferment period, except that the Secretary does not subsidize the interest that accrues during the grace period on a loan for which the first disbursement is made on or after July 1, 2012 and before July 1, 2014. Loans made under this program are referred to as Direct Subsidized Loans. Graduate and professional students are not eligible to receive Direct Subsidized Loans for any period of enrollment beginning on or after July 1, 2012.

* * * * *

*Federal Insured Student Loan Program:* The loan program authorized by title IV, part B of the Act under which the Secretary directly insures lenders against losses.

*Federal Stafford Loan Program:* The loan program authorized by title IV, part B of the Act which encouraged the making of subsidized and unsubsidized loans to undergraduate, graduate, and professional students and is one of the Federal Family Education Loan programs.

*Grace period:* A six-month period that begins on the day after a Direct Subsidized Loan borrower, a Direct Unsubsidized Loan borrower, or, in some cases, a Direct Consolidation Loan borrower whose consolidation application was received before July 1, 2006, ceases to be enrolled as at least a half-time student at an eligible institution and ends on the day before the repayment period begins.

*Guaranty agency:* A State or private nonprofit organization that has an agreement with the Secretary under which it will administer a loan guarantee program under the Act.

*Holder:* The entity that owns a loan. For a FFEL Program loan, the term ''holder'' refers to an eligible lender owning a FFEL Program loan, including a Federal or State agency or an organization or corporation acting on behalf of such an agency and acting as a conservator, liquidator, or receiver of an eligible lender.

* * * * *

*Lender:* As used in this part, the term ''lender'' has the meaning specified in section 435(d) of the Act for purposes of the FFEL Program.

* * * * *

*Master Promissory Note (MPN):*

* * * * *

(4) Unless the Secretary determines otherwise, a school may use a single MPN as the basis for all loans borrowed by a student or parent borrower for attendance at that school. If a school is not authorized by the Secretary for multi-year use of the MPN, a student or parent borrower must sign a new MPN for each academic year.

*Nationwide consumer reporting agency:* A consumer reporting agency as defined in 15 U.S.C. 1681a(p).

* * * * *

*Satisfactory repayment arrangement:* (1) For the purpose of regaining eligibility under section 428F(b) of the HEA, the making of six consecutive, voluntary, on-time, full monthly payments on a defaulted loan. A borrower may only obtain the benefit of this paragraph with respect to renewed eligibility once.

(2) For the purpose of consolidating a defaulted loan under § 685.220(d)(1)(ii)(A)(*3*)—

(i) The making of three consecutive, voluntary, on-time, full monthly payments on a defaulted loan prior to consolidation; or

(ii) Agreeing to repay the Direct Consolidation Loan under one of the income-contingent repayment plans described in § 685.209 or the income-based repayment plan described in § 685.221.

(3) For the purpose of paragraph (2)(i) of this definition, the required monthly payment amount may not be more than is reasonable and affordable based on the borrower's total financial circumstances. ''On-time'' means a payment made within 20 days of the scheduled due date, and voluntary payments are payments made directly by the borrower and do not include payments obtained by Federal offset, garnishment, or income or asset execution.

(4) A borrower has not used the one opportunity to renew eligibility for title IV assistance if the borrower makes six consecutive, on-time, voluntary, full monthly payments under an agreement to rehabilitate a defaulted loan, but does not receive additional title IV assistance prior to defaulting on that loan again.

*Substantial gainful activity:* A level of work performed for pay or profit that involves doing significant physical or mental activities, or a combination of both.

*Totally and permanently disabled:* The condition of an individual who—

(1) Is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that—

(i) Can be expected to result in death;

(ii) Has lasted for a continuous period of not less than 60 months; or

(iii) Can be expected to last for a continuous period of not less than 60 months; or

(2) Has been determined by the Secretary of Veterans Affairs to be unemployable due to a service-connected disability.

* * * * *

■ 84. Section 685.200 is amended by:
■ A. Revising paragraph (a)(1)(iv).
■ B. Revising paragraph (a)(1)(v).
■ C. Revising paragraph (b)(4).
■ D. In paragraph (c)(1)(vii)(C), adding the word ''paragraph'' immediately before the citation ''(c)(1)(vii)(A)''.
■ E. Adding a new paragraph (c)(1)(vii)(D).
■ F. Revising paragraph (d).

The revisions and addition read as follows:

**§ 685.200 Borrower eligibility.**

(a) * * *

(1) * * *

(iv) In the case of a borrower whose previous loan or TEACH Grant service obligation was discharged due to total and permanent disability, the student—

(A) In the case of a borrower whose prior loan under title IV of the Act or TEACH Grant service obligation was discharged after a final determination of total and permanent disability, the borrower—

(*1*) Obtains a certification from a physician that the borrower is able to engage in substantial gainful activity; and

(*2*) Signs a statement acknowledging that neither the new Direct Loan the borrower receives nor any previously discharged loan on which the borrower is required to resume payment in accordance with paragraph (a)(1)(iv)(B)

of this section can be discharged in the future on the basis of any impairment present when the new loan is made, unless that impairment substantially deteriorates;

(B) In the case of a borrower who receives a new Direct Loan, other than a Direct Consolidation Loan, within three years of the date that any previous title IV loan or TEACH Grant service obligation was discharged due to a total and permanent disability in accordance with § 685.213(b)(4)(iii), 34 CFR 674.61(b)(3)(v), 34 CFR 682.402(c)(3)(iv), or 34 CFR 686.42(b) based on a discharge request received on or after July 1, 2010, the borrower resumes repayment on the previously discharged loan in accordance with § 685.213(b)(7), 34 CFR 674.61(b)(6), or 34 CFR 682.402(c)(6), or acknowledges that he or she is once again subject to the terms of the TEACH Grant agreement to serve before receiving the new loan; and

(C) In the case of a borrower whose prior loan under title IV of the Act was conditionally discharged after an initial determination that the borrower was totally and permanently disabled based on a discharge request received prior to July 1, 2010—

(*1*) The suspension of collection activity on the prior loan has been lifted;

(*2*) The borrower complies with the requirement in paragraph (a)(1)(iv)(A)(*1*) of this section;

(*3*) The borrower signs a statement acknowledging that neither the new Direct Loan the borrower receives nor the loan that has been conditionally discharged prior to a final determination of total and permanent disability can be discharged in the future on the basis of any impairment present when the borrower applied for a total and permanent disability discharge or when the new loan is made, unless that impairment substantially deteriorates; and

(*4*) The borrower signs a statement acknowledging that the suspension of collection activity on the prior loan will be lifted.

(v) In the case of a student who was enrolled in a program of study prior to July 1, 2012 and who seeks a loan but does not have a certificate of graduation from a school providing secondary education or the recognized equivalent of such a certificate, the student meets the requirements under 34 CFR 668.32(e)(2), (3), (4), or (5).

* * * * *

(b) * * *

(4) The student has received a determination of his or her annual loan maximum eligibility under the Direct Unsubsidized Loan Program and, for periods of enrollment beginning before July 1, 2012, the Direct Subsidized Loan Program; and

* * * * *

(c) * * *

(1) * * *

(vii) * * *

(D) For the purposes of paragraph (c)(1)(vii)(A)(*3*) of this section, the Secretary may determine that extenuating circumstances exist based on documentation that includes, but is not limited to, an updated credit report, a statement from the creditor that the borrower has made satisfactory arrangements to repay the debt, or a satisfactory statement from the borrower explaining any delinquencies with outstanding balances of less than $500.

* * * * *

(d) *Defaulted Perkins, FFEL, and Direct Loan program borrowers.* Except as noted in § 685.220(d)(1)(ii)(A)(*3*), in the case of a student or parent borrower who is currently in default on a Perkins, FFEL, or Direct Loan program loan, the borrower must make satisfactory repayment arrangements, as described in paragraph (1) of the definition of that term under § 685.102(b), on the defaulted loan.

* * * * *

■ 85. Section 685.201 is amended by:
■ A. Revising paragraph (a)(2).
■ B. Revising paragraph (b).
■ C. Revising paragraph (c)(1).
■ D. In paragraph (c)(2), removing the word ''Servicer'' and adding, in its place, the word ''Secretary''.

The revisions read as follows:

**§ 685.201 Obtaining a loan.**

(a) * * *

(2) If the student is eligible for a Direct Subsidized Loan or a Direct Unsubsidized Loan, the school in which the student is enrolled must perform the following functions:

(i) Create a loan origination record and transmit the record to the Secretary.

(ii) Ensure that the loan is supported by a completed Master Promissory Note (MPN) and, if applicable, transmit the MPN to the Secretary.

(iii) In accordance with 34 CFR 668.162, draw down funds or receive funds from the Secretary, and disburse the funds to the student.

(b) *Application for a Direct PLUS Loan.* (1) For a parent to obtain a Direct PLUS Loan, the parent must complete the Direct PLUS Loan MPN and the dependent student on whose behalf the parent is borrowing must complete a Free Application for Federal Student Aid and submit it in accordance with instructions in the application.

(2) For a graduate or professional student to apply for a Direct PLUS Loan, the student must complete a Free Application for Federal Student Aid and submit it in accordance with instructions in the application. The graduate or professional student must also complete the Direct PLUS Loan MPN.

(3) For either a parent or student PLUS borrower, as applicable, the school must complete its portion of the Direct PLUS Loan MPN and, if applicable, submit it to the Secretary. The Secretary makes a determination as to whether the parent or graduate or professional student has an adverse credit history. The school performs the functions described in paragraph (a)(2) of this section.

(c) * * *

(1) To obtain a Direct Consolidation Loan, the applicant must complete the application and promissory note and submit it to the Secretary. The application and promissory note sets forth the terms and conditions of the Direct Consolidation Loan and informs the applicant how to contact the Secretary. The Secretary answers questions regarding the process of applying for a Direct Consolidation Loan and provides information about the terms and conditions of both Direct Consolidation Loans and the types of loans that may be consolidated.

* * * * *

■ 86. Section 685.202 is amended by:
■ A. Revising paragraph (a).
■ B. Revising paragraph (b)(2).

The revisions read as follows:

**§ 685.202 Charges for which Direct Loan Program borrowers are responsible.**

(a) *Interest*—(1) *Interest rate for Direct Subsidized Loans and Direct Unsubsidized Loans first disbursed before July 1, 1995.* During all periods, the interest rate during any twelve-month period beginning on July 1 and ending on June 30 is determined on the June 1 immediately preceding that period. The interest rate is equal to the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to that June 1 plus 3.1 percentage points, but does not exceed 8.25 percent.

(2) *Interest rate for Direct Subsidized Loans and Direct Unsubsidized Loans first disbursed on or after July 1, 1995, and before July 1, 1998.* (i) *During the in-school, grace, and deferment periods.* The interest rate during any twelve-month period beginning on July 1 and ending on June 30 is determined on the June 1 immediately preceding that period. The interest rate is equal to the bond equivalent rate of 91-day Treasury

bills auctioned at the final auction held prior to that June 1 plus 2.5 percentage points, but does not exceed 8.25 percent.

(ii) *During all other periods.* The interest rate during any twelve-month period beginning on July 1 and ending on June 30 is determined on the June 1 immediately preceding that period. The interest rate is equal to the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to that June 1 plus 3.1 percentage points, but does not exceed 8.25 percent.

(3) *Interest Rate for Direct Subsidized Loans and Direct Subsidized Loans first disbursed on or after July 1, 1998, and before July 1, 2006.* (i) *During the in-school, grace, and deferment periods.* The interest rate during any twelve-month period beginning on July 1 and ending on June 30 is determined on the June 1 immediately preceding that period. The interest rate is equal to the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to that June 1 plus 1.7 percentage points, but does not exceed 8.25 percent.

(ii) *During all other periods.* The interest rate during any twelve-month period beginning on July 1 and ending on June 30 is determined on the June 1 immediately preceding that period. The interest rate is equal to the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to that June 1 plus 2.3 percentage points, but does not exceed 8.25 percent.

(4) *Interest rate for Direct Subsidized Loans made to undergraduate students for which the first disbursement is made on or after July 1, 2006, and before July 1, 2013.* For a loan for which the first disbursement is made:

(i) On or after July 1, 2006, and before July 1, 2008, the interest rate is 6.8 percent on the unpaid principal balance of the loan.

(ii) On or after July 1, 2008, and before July 1, 2009, the interest rate is 6 percent on the unpaid principal balance of the loan.

(iii) On or after July 1, 2009, and before July 1, 2010, the interest rate is 5.6 percent on the unpaid principal balance of the loan.

(iv) On or after July 1, 2010, and before July 1, 2011, the interest rate is 4.5 percent on the unpaid principal balance of the loan.

(v) On or after July 1, 2011, and before July 1, 2013, the interest rate is 3.4 percent on the unpaid balance of the loan.

(5) *Interest rate for Direct Subsidized Loans made to graduate or professional students for which the first disbursement is made on or after July 1, 2006, and before July 1, 2012.* The interest rate is 6.8 percent.

(6) *Interest rate for Direct Unsubsidized Loans first disbursed on or after July 1, 2006, and before July 1, 2013.* The interest rate is 6.8 percent.

(7) *Interest rate for Direct Subsidized Loans and Direct Unsubsidized Loans made to undergraduate students for which the first disbursement is made on or after July 1, 2013.* The interest rate for loans first disbursed during any 12-month period beginning on July 1 and ending on June 30 is determined on the June 1 preceding that period and is a fixed rate for the life of the loan. The interest rate is the lesser of—

(i) A rate equal to the high yield of the 10-year Treasury note auctioned at the final auction held prior to the June 1 preceding the 12-month period, plus 2.05 percentage points, or

(ii) 8.25 percent.

(8) *Interest rate for Direct Unsubsidized Loans made to graduate or professional students for which the first disbursement is made on or after July 1, 2013.* The interest rate for loans first disbursed during any 12-month period beginning on July 1 and ending on June 30 is determined on the June 1 preceding that period and is a fixed rate for the life of the loan. The interest rate is the lesser of—

(i) A rate equal to the high yield of the 10-year Treasury note auctioned at the final auction held prior to the June 1 preceding the 12-month period, plus 3.6 percentage points, or

(ii) 9.5 percent.

(9) *Interest rate for Direct PLUS Loans. (i) Direct PLUS Loans first disbursed before July 1, 1998.* (A) *Interest rates for periods ending before July 1, 2001.* During all periods, the interest rate during any twelve-month period beginning on July 1 and ending on June 30 is determined on the June 1 preceding that period. The interest rate is equal to the bond equivalent rate of 52-week Treasury bills auctioned at the final auction held prior to that June 1 plus 3.1 percentage points, but does not exceed 9 percent.

(B) *Interest rates for periods beginning on or after July 1, 2001.* During all periods, the interest rate during any twelve-month period beginning on July 1 and ending on June 30 is determined on the June 26 preceding that period. The interest rate is equal to the weekly average 1-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the last calendar week ending on or before that June 26 plus 3.1 percentage points, but does not exceed 9 percent.

(ii) *Direct PLUS Loans first disbursed on or after July 1, 1998, and before July 1, 2006.* During all periods, the interest rate during any twelve-month period beginning on July 1 and ending on June 30 is determined on the June 1 preceding that period. The interest rate is equal to the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to that June 1 plus 3.1 percentage points, but does not exceed 9 percent.

(iii) *Direct PLUS Loans first disbursed on or after July 1, 2006, and before July 1, 2013.* The interest rate is 7.9 percent.

(iv) *Direct PLUS Loans first disbursed on or after July 1, 2013.* The interest rate for loans first disbursed during any 12-month period beginning on July 1 and ending on June 30 is determined on the June 1 preceding that period and is a fixed rate for the life of the loan. The interest rate is the lesser of—

(A) A rate equal to the high yield of the 10-year Treasury note auctioned at the final auction held prior to the June 1 preceding the 12-month period, plus 4.6 percentage points, or

(B) 10.5 percent.

(10) *Interest rate for Direct Consolidation Loans*—(i) *Interest rate for Direct Subsidized Consolidation Loans and Direct Unsubsidized Consolidation Loans.* (A) *Loans first disbursed before July 1, 1995.* The interest rate is the rate established for Direct Subsidized Loans and Direct Unsubsidized Loans in paragraph (a)(1) of this section.

(B) *Loans first disbursed on or after July 1, 1995, and before July 1, 1998.* The interest rate is the rate established for Direct Subsidized Loans and Direct Unsubsidized Loans in paragraph (a)(2) of this section.

(C) *Loans for which the first disbursement is made on or after July 1, 1998, and prior to October 1, 1998, and loans for which the disbursement is made on or after October 1, 1998, for which the consolidation application was received by the Secretary before October 1, 1998.* The interest rate is the rate established for Direct Subsidized Loans and Direct Unsubsidized Loans in paragraph (a)(3) of this section.

(D) *Loans for which the consolidation application is received by the Secretary on or after October 1, 1998, and before February 1, 1999.* During all periods, the interest rate during any twelve-month period beginning on July 1 and ending on June 30 is determined on the June 1 immediately preceding that period. The interest rate is equal to the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior

to that June 1 plus 2.3 percentage points, but does not exceed 8.25 percent.

(E) *Loans for which the consolidation application is received by the Secretary on or after February 1, 1999, and before July 1, 2013.* During all periods, the interest rate is based on the weighted average of the interest rates on the loans being consolidated, rounded to the nearest higher one-eighth of one percent, but does not exceed 8.25 percent.

(F) *Loans for which the consolidation application is received by the Secretary on or after July 1, 2013.* During all periods, the interest rate is based on the weighted average of the interest rates on the loans being consolidated, rounded to the nearest higher one-eighth of one percent.

(ii) *Interest rate for Direct PLUS Consolidation Loans.* (A) *Loans first disbursed before July 1, 1998.* The interest rate is the rate established for Direct PLUS Loans in paragraph (a)(9)(i) of this section.

(B) *Loans for which the first disbursement is made on or after July 1, 1998, and prior to October 1, 1998, and loans for which the disbursement is made on or after October 1, 1998, for which the consolidation application was received by the Secretary before October 1, 1998.* The interest rate is the rate established for Direct PLUS Loans in paragraph (a)(9)(ii) of this section.

(C) *Loans for which the consolidation application is received by the Secretary on or after October 1, 1998, and before February 1, 1999.* During all periods, the interest rate during any twelve-month period beginning on July 1 and ending on June 30 is determined on the June 1 immediately preceding that period. The interest rate is equal to the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to that June 1 plus 2.3 percentage points, but does not exceed 8.25 percent.

(D) *Loans for which the consolidation application is received by the Secretary on or after February 1, 1999, and before July 1, 2006.* During all periods, the interest rate is based on the weighted average of the interest rates on the loans being consolidated, rounded to the nearest higher one-eighth of one percent, but does not exceed 8.25 percent.

(11) *Applicability of the Servicemembers Civil Relief Act (50 U.S.C. 527, App. sec. 207).* Notwithstanding paragraphs (a)(1) through (10) of this section, effective August 14, 2008, upon the Secretary's receipt of a borrower's written request and a copy of the borrower's military orders, the maximum interest rate, as defined in 50 U.S.C. 527, App. section 207(d), on Direct Loan Program loans made prior to the borrower entering active duty status is 6 percent while the borrower is on active duty military service.

(b) * * *

(2) For a Direct Unsubsidized Loan, a Direct Unsubsidized Consolidation Loan that qualifies for a grace period under the regulations that were in effect for consolidation applications received before July 1, 2006, a Direct PLUS Loan, or for a Direct Subsidized Loan for which the first disbursement is made on or after July 1, 2012, and before July 1, 2014, the Secretary may capitalize the unpaid interest that accrues on the loan when the borrower enters repayment.

* * * * *

■ 87. Section 685.203 is amended by:

■ A. Revising the introductory text of paragraph (a)(1).

■ B. In paragraphs (a)(1)(i), (a)(1)(ii), and (a)(1)(iii), removing the words ''$2,625, or, for a loan disbursed on or after July 1, 2007, $3,500,'' and adding, in their place, the figure ''$3,500''.

■ C. Revising the introductory text of paragraph (a)(2).

■ D. In paragraphs (a)(2)(i) and (a)(2)(ii), removing the words ''$3,500, or, for a loan disbursed on or after July 1, 2007, $4,500,'' and adding, in their place, the figure ''$4,500''.

■ E. Revising the introductory text of paragraph (a)(3).

■ F. Revising paragraph (a)(5).

■ G. Revising the introductory text of paragraph (a)(6).

■ H. Revising paragraph (a)(7).

■ I. Revising paragraph (b).

■ J. In paragraph (c)(1)(i), removing the words ''Federal Direct Unsubsidized Loan Program'' and adding, in their place, the words ''Direct Unsubsidized Loan Program''.

■ K. Revising paragraph (c)(1)(ii).

■ L. In paragraph (c)(1)(iii), in the last sentence, removing the words ''Federal PLUS Loan or''.

■ M. Revising the introductory text of paragraph (c)(2).

■ N. In paragraphs (c)(2)(i)(A), (c)(2)(i)(B), (c)(2)(i)(C), (c)(2)(ii)(A), and (c)(2)(ii)(B), removing the words ''$4,000, or, for a loan first disbursed on or after July 1, 2008, $6,000,'' and adding, in their place, the figure ''$6,000''.

■ O. In paragraphs (c)(2)(iii)(A) and (c)(2)(iii)(B), removing the words ''$5,000, or, for a loan first disbursed on or after July 1, 2008, $7,000,'' and adding, in their place, the figure ''$7,000''.

■ P. In paragraph (c)(2)(v), removing the words ''$10,000, or, for a loan disbursed on or after July 1, 2007,''.

■ Q. In paragraph (c)(2)(vi)(A), removing the words ''$4,000, or, for a loan first disbursed on or after July 1, 2008, $6,000,'' and adding, in their place, the figure ''$6,000''.

■ R. In paragraph (c)(2)(vi)(B), removing the words ''$5,000, or, for a loan disbursed on or after July 1, 2007, $7,000,'' and adding, in their place, the figure ''$7,000''.

■ S. In paragraph (c)(2)(vii), removing the words ''$5,000, or, for a loan disbursed on or after July 1, 2007,''.

■ T. Revising the introductory text of paragraph (d).

■ U. Revising paragraph (e).

■ V. In paragraph (i)(1), adding the word ''Subsidized'' immediately before the words ''Federal Stafford Loans''.

■ W. In paragraph (i)(2), removing the words ''Federal Unsubsidized Stafford Loans'' and adding, in their place, the words ''Unsubsidized Federal Stafford Loans''.

The revisions read as follows:

**§ 685.203 Loan limits.**

(a) * * *

(1) In the case of an undergraduate student who has not successfully completed the first year of a program of undergraduate education, the total amount the student may borrow for any academic year of study under the Direct Subsidized Loan Program may not exceed the following:

* * * * *

(2) In the case of an undergraduate student who has successfully completed the first year of an undergraduate program but has not successfully completed the second year of an undergraduate program, the total amount the student may borrow for any academic year of study under the Direct Subsidized Loan Program may not exceed the following:

* * * * *

(3) In the case of an undergraduate student who has successfully completed the first and second years of a program of study of undergraduate education but has not successfully completed the remainder of the program, the total amount the student may borrow for any academic year of study under the Direct Subsidized Loan Program may not exceed the following:

* * * * *

(5) In the case of a graduate or professional student for periods of enrollment beginning before July 1, 2012, the total amount the student may borrow for any academic year of study under the Direct Subsidized Loan Program may not exceed $8,500.

(6) In the case of a student enrolled for no longer than one consecutive 12-month period in a course of study necessary for enrollment in a program leading to a degree or a certificate, the total amount the student may borrow for any academic year of study under the Direct Subsidized Loan Program may not exceed the following:

* * * * *

(7) In the case of a student who has obtained a baccalaureate degree and is enrolled or accepted for enrollment in coursework necessary for a professional credential or certification from a State that is required for employment as a teacher in an elementary or secondary school in that State, the total amount the student may borrow for any academic year of study under the Direct Subsidized Loan Program may not exceed $5,500.

* * * * *

(b) *Direct Unsubsidized Loans.* (1) In the case of a dependent undergraduate student, except as provided in paragraph (c)(3) of this section, the total amount a student may borrow for any academic year of study under the Direct Unsubsidized Loan Program is the same as the amount determined under paragraph (a) of this section, less any amount received under the Direct Subsidized Loan Program, plus—

(i) $2,000 for a program of study of at least a full academic year in length.

(ii) For a program of study that is one academic year or more in length with less than a full academic year remaining, the amount that is the same ratio to $2,000 as the—

$$\frac{\text{Number of semester, trimester, quarter, or clock hours enrolled}}{\text{Number of semester, trimester, quarter or clock hours in academic year}}$$

(iii) For a program of study that is less than a full academic year in length, the amount that is the same ratio to $2,000 as the lesser of the—

$$\frac{\text{Number of semester, trimester, quarter, or clock hours enrolled}}{\text{Number of semester, trimester, quarter or clock hours in academic year}}$$

or

$$\frac{\text{Number of weeks enrolled}}{\text{Number of weeks in academic year}}$$

(2)(i) In the case of an independent undergraduate student or certain dependent undergraduate students under the conditions specified in paragraph (c)(1)(ii) of this section, except as provided in paragraph (c)(3) of this section, the total amount the student may borrow for any period of enrollment under the Direct Unsubsidized Loan Program may not exceed the amounts determined under paragraph (a) of this section less any amount received under the Direct Subsidized Loan Program in combination with the amounts determined under paragraph (c) of this section.

(ii) In the case of a graduate or professional student for a period of enrollment beginning before July 1, 2012, the total amount the student may borrow for any academic year of study under the Direct Unsubsidized Loan Program may not exceed the amount determined under paragraph (a)(5) of this section, less any amount received under the Direct Subsidized Loan Program.

(iii) In the case of a graduate or professional student for a period of enrollment beginning on or after July 1, 2012, the total amount the student may borrow for any academic year of study under the Direct Unsubsidized Loan Program may not exceed $8,500.

(c) * * *

(1) * * *

(ii) In order for a dependent undergraduate student to receive this additional loan amount, the financial aid administrator must determine that the student's parent likely will be precluded by exceptional circumstances from borrowing under the Direct PLUS Loan Program and the student's family is otherwise unable to provide the student's expected family contribution. The financial aid administrator must base the determination on a review of the family financial information provided by the student and consideration of the student's debt

burden and must document the determination in the school's file.

* * * * *

(2) The additional amount that a student described in paragraph (c)(1)(i) of this section may borrow under the Direct Unsubsidized Loan Program for any academic year of study may not exceed the following:

* * * * *

(d) *Aggregate limits for subsidized loans.* The aggregate unpaid principal amount of all Direct Subsidized Loans and Subsidized Federal Stafford Loans made to a student but excluding the amount of capitalized interest may not exceed the following:

* * * * *

(e) *Aggregate limits for unsubsidized loans.* The total amount of Direct Unsubsidized Loans, Unsubsidized Federal Stafford Loans, and Federal SLS Loans, excluding the amount of capitalized interest, may not exceed the following:

(1) For a dependent undergraduate student, $31,000 minus any Direct Subsidized Loan and Subsidized Federal Stafford Loan amounts, unless the student qualifies under paragraph (c) of this section for additional eligibility or qualified for that additional eligibility under the Federal SLS Program.

(2) For an independent undergraduate or a dependent undergraduate who qualifies for additional eligibility under paragraph (c) of this section or qualified for this additional eligibility under the Federal SLS Program, $57,500 minus any Direct Subsidized Loan and Subsidized Federal Stafford Loan amounts.

(3) For a graduate or professional student, $138,500, including any loans for undergraduate study, minus any Direct Subsidized Loan, Subsidized Federal Stafford Loan, and Federal SLS Program loan amounts.

* * * * *

■ 88. Section 685.204 is revised to read as follows:

**§ 685.204 Deferment.**

(a) *General.* (1) A Direct Subsidized Loan or Direct Subsidized Consolidation Loan borrower who meets the requirements described in paragraphs (b), (d), (e), (f), (g), (h), (i), or (j) of this section is eligible for a deferment during which periodic installments of principal and interest need not be paid.

(2) A Direct Unsubsidized Loan, Direct Unsubsidized Consolidation Loan, Direct PLUS Loan, or Direct PLUS Consolidation Loan borrower who meets the requirements described in paragraphs (b) through (j) of this section is eligible for a deferment during which periodic installments of principal need not be paid but interest does accrue and is capitalized or paid by the borrower. At or before the time a deferment is granted, the Secretary provides information, including an example, to assist the borrower in understanding the impact of capitalization of accrued, unpaid interest on the borrower's loan principal and on the total amount of interest to be paid over the life of the loan.

(3) A borrower whose loan is in default is not eligible for a deferment, unless the borrower has made payment arrangements satisfactory to the Secretary.

(4)(i) To receive a deferment, except as provided for in-school deferments under paragraphs (b)(2)(ii) through (iv) of this section, the borrower must request the deferment and, except as provided in paragraph (a)(5)(i) of this section, provide the Secretary with all information and documents required to establish eligibility for the deferment.

(ii) In the case of a military service deferment under paragraph (h) of this section, a borrower's representative may request the deferment and provide the required information and documents on behalf of the borrower. If the Secretary grants a military service deferment based on a request from a borrower's representative, the Secretary notifies the borrower that the deferment has been granted and that the borrower has the option to cancel the deferment and continue to make payments on the loan. The Secretary may also notify the borrower's representative of the outcome of the deferment request.

(5)(i) After receiving a borrower's written or verbal request for a deferment, the Secretary may grant a graduate fellowship deferment under paragraph (d), a rehabilitation training deferment under paragraph (e), an unemployment deferment under paragraph (f), an economic hardship deferment under paragraph (g), a military service deferment under paragraph (h), or a post-active duty student deferment under paragraph (i) of this section if the Secretary confirms that the borrower has received a deferment on a FFEL Program loan for the same reason and during the same time period.

(ii) The Secretary will grant a deferment based on the information obtained under paragraph (a)(5)(i) of this section when determining a borrower's eligibility for a deferment, unless the Secretary, as of the date of the determination, has information indicating that the borrower does not qualify for the deferment. The Secretary will resolve any discrepant information before granting a deferment under paragraph (a)(5)(i) of this section.

(iii) If the Secretary grants a deferment under paragraph (a)(5)(i) of this section, the Secretary notifies the borrower that the deferment has been granted and that the borrower has the option to cancel the deferment and continue to make payments on the loan.

(b) *In-school deferment.* (1) A Direct Loan borrower is eligible for a deferment during any period during which—

(i) The borrower is carrying at least one-half the normal full-time work load for the course of study that the borrower is pursuing, as determined by the eligible school the borrower is attending; and

(ii) The borrower is not serving in a medical internship or residency program, except for a residency program in dentistry.

(2) For the purpose of paragraph (b)(1) of this section, the Secretary processes a deferment when—

(i) The borrower submits a request to the Secretary along with documentation verifying the borrower's eligibility;

(ii) The Secretary receives information from the borrower's school indicating that the borrower is eligible to receive a new loan;

(iii) The Secretary receives student status information from the borrower's school, either directly or indirectly, indicating that the borrower is enrolled on at least a half-time basis; or

(iv) The Secretary confirms a borrower's half-time enrollment status through the use of the National Student Loan Data System if requested to do so by the school the borrower is attending.

(3)(i) Upon notification by the Secretary that a deferment has been granted based on paragraph (b)(2)(ii), (iii), or (iv) of this section, the borrower has the option to cancel the deferment and continue to make payments on the loan.

(ii) If the borrower elects to cancel the deferment and continue to make payments on the loan, the borrower has the option to make the principal and interest payments that were deferred. If the borrower does not make the payments, the Secretary applies a deferment for the period in which payments were not made and capitalizes the interest.

(c) *In-school deferments for Direct PLUS Loan borrowers with loans first disbursed on or after July 1, 2008.* (1)(i) A student Direct PLUS Loan borrower is eligible for a deferment on a Direct PLUS Loan first disbursed on or after July 1, 2008 during the six-month period that begins on the day after the

student ceases to be enrolled on at least a half-time basis at an eligible institution.

(ii) If the Secretary grants an in-school deferment to a student Direct PLUS Loan borrower in accordance with § 685.204(b)(2)(ii), (iii), or (iv), the deferment period for a Direct PLUS Loan first disbursed on or after July 1, 2008 includes the six-month post-enrollment period described in paragraph (c)(1)(i) of this section.

(2) A parent Direct PLUS Loan borrower is eligible for a deferment on a Direct PLUS Loan first disbursed on or after July 1, 2008—

(i) Upon the request of the borrower, during the period when the student on whose behalf the loan was obtained is enrolled at an eligible institution on at least a half-time basis; and

(ii) Upon the request of the borrower, during the six-month period that begins on the later of the day after the student on whose behalf the loan was obtained ceases to be enrolled on at least a half-time basis or, if the parent borrower is also a student, the day after the parent borrower ceases to be enrolled on at least a half-time basis.

(d) *Graduate fellowship deferment.* (1) A Direct Loan borrower is eligible for a deferment during any period in which an authorized official of the borrower's graduate fellowship program certifies that the borrower is pursuing a course of study pursuant to an eligible graduate fellowship program in accordance with paragraph (d)(2) of this section.

(2)(i) To qualify for a deferment under paragraph (d)(1) of this section, a borrower must—

(A) Hold at least a baccalaureate degree conferred by an institution of higher education;

(B) Have been accepted or recommended by an institution of higher education for acceptance on a full-time basis into an eligible graduate fellowship program, as defined in paragraph (d)(2)(ii) of this section; and

(C) Not be serving in a medical internship or residency program, except for a residency program in dentistry.

(ii) An eligible graduate fellowship program is a fellowship program that—

(A) Provides sufficient financial support to graduate fellows to allow for full-time study for at least six months;

(B) Requires a written statement from each applicant explaining the applicant's objectives before the award of that financial support;

(C) Requires a graduate fellow to submit periodic reports, projects, or evidence of the fellow's progress; and

(D) In the case of a course of study at a foreign university, accepts the course of study for completion of the fellowship program.

(e) *Rehabilitation training program deferment.* (1) A Direct Loan borrower is eligible for a deferment during any period in which an authorized official of the borrower's rehabilitation training program certifies that the borrower is pursuing an eligible rehabilitation training program for individuals with disabilities in accordance with paragraph (e)(2) of this section.

(2) For purposes of paragraph (e)(1) of this section, an eligible rehabilitation training program for disabled individuals is a program that—

(i) Is licensed, approved, certified, or otherwise recognized as providing rehabilitation training to disabled individuals by—

(A) A State agency with responsibility for vocational rehabilitation programs;

(B) A State agency with responsibility for drug abuse treatment programs;

(C) A State agency with responsibility for mental health services programs;

(D) A State agency with responsibility for alcohol abuse treatment programs; or

(E) The Department of Veterans Affairs; and

(ii) Provides or will provide the borrower with rehabilitation services under a written plan that—

(A) Is individualized to meet the borrower's needs;

(B) Specifies the date on which the services to the borrower are expected to end; and

(C) Is structured in a way that requires a substantial commitment by the borrower to his or her rehabilitation. The Secretary considers a substantial commitment by the borrower to be a commitment of time and effort that normally would prevent an individual from engaging in full-time employment, either because of the number of hours that must be devoted to rehabilitation or because of the nature of the rehabilitation. For the purpose of this paragraph, full-time employment involves at least 30 hours of work per week and is expected to last at least three months.

(f) *Unemployment deferment.* (1) A Direct Loan borrower is eligible for a deferment during periods that, collectively, do not exceed three years in which the borrower is seeking and unable to find full-time employment.

(2) A borrower qualifies for an unemployment deferment by—

(i) Providing evidence of eligibility for unemployment benefits to the Secretary; or

(ii) Providing to the Secretary a written certification, or an equivalent as approved by the Secretary, that—

(A) The borrower has registered with a public or private employment agency, if one is available to the borrower within a 50-mile radius of the borrower's current address; and

(B) For all requests beyond the initial request, the borrower has made at least six diligent attempts during the preceding six-month period to secure full-time employment.

(3) For purposes of obtaining an unemployment deferment under paragraph (f)(2)(ii) of this section, the following rules apply:

(i) A borrower may qualify for an unemployment deferment whether or not the borrower has been previously employed.

(ii) An unemployment deferment is not justified if the borrower refuses to seek or accept employment in kinds of positions or at salary and responsibility levels for which the borrower feels overqualified by virtue of education or previous experience.

(iii) Full-time employment involves at least 30 hours of work a week and is expected to last at least three months.

(iv) The initial period of unemployment deferment may be granted for a period of unemployment beginning up to six months before the date the Secretary receives the borrower's request, and may be granted for up to six months after that date.

(4) The Secretary does not grant an unemployment deferment beyond the date that is six months after the date the borrower provides evidence of the borrower's eligibility for unemployment insurance benefits under paragraph (f)(2)(i) of this section or the date the borrower provides the written certification, or an approved equivalent, under paragraph (f)(2)(ii) of this section.

(g) *Economic hardship deferment.* (1)(i) A Direct Loan borrower is eligible for a deferment during periods that, collectively, do not exceed three years in which the borrower has experienced or will experience an economic hardship in accordance with paragraph (g)(2) of this section.

(ii) An economic hardship deferment is granted for periods of up to one year at a time, except that a borrower who receives a deferment under paragraph (g)(2)(iv) of this section may receive an economic hardship deferment for the lesser of the borrower's full term of service in the Peace Corps or the borrower's remaining period of economic hardship deferment eligibility under the 3-year maximum.

(2) A borrower qualifies for an economic hardship deferment if the borrower—

(i) Has been granted an economic hardship deferment under either the FFEL or the Federal Perkins Loan programs for the period of time for

which the borrower has requested an economic hardship deferment for his or her Direct Loan;

(ii) Is receiving payment under a Federal or State public assistance program, such as Aid to Families with Dependent Children, Supplemental Security Income, Food Stamps, or State general public assistance;

(iii) Is working full-time (as defined in paragraph (g)(3)(iii) of this section) and has a monthly income (as defined in paragraph (g)(3)(iv) of this section) that does not exceed the greater of (as calculated on a monthly basis)—

(A) The minimum wage rate described in section 6 of the Fair Labor Standards Act of 1938; or

(B) An amount equal to 150 percent of the poverty guideline applicable to the borrower's family size (as defined in paragraph (g)(3)(v) of this section) as published annually by the Department of Health and Human Services pursuant to 42 U.S.C. 9902(2). If a borrower is not a resident of a State identified in the poverty guidelines, the poverty guideline to be used for the borrower is the poverty guideline (for the relevant family size) used for the 48 contiguous States; or

(iv) Is serving as a volunteer in the Peace Corps.

(3) The following rules apply to a deferment granted under paragraph (g)(2)(iii) of this section:

(i) For an initial period of deferment, the Secretary requires the borrower to submit evidence showing the amount of the borrower's monthly income.

(ii) To qualify for a subsequent period of deferment that begins less than one year after the end of a period of deferment under paragraph (g)(2)(iii) of this section, the Secretary requires the borrower to submit evidence showing the amount of the borrower's monthly income or a copy of the borrower's most recently filed Federal income tax return.

(iii) A borrower is considered to be working full-time if the borrower is expected to be employed for at least three consecutive months at 30 hours per week.

(iv) A borrower's monthly income is the gross amount of income received by the borrower from employment and from other sources, or one-twelfth of the borrower's adjusted gross income, as recorded on the borrower's most recently filed Federal income tax return.

(v) Family size means the number that is determined by counting the borrower, the borrower's spouse, and the borrower's children, including unborn children who will be born during the period covered by the deferment, if the children receive more than half their support from the borrower. A borrower's family size includes other individuals if, at the time the borrower requests the economic hardship deferment, the other individuals—

(A) Live with the borrower; and

(B) Receive more than half their support from the borrower and will continue to receive this support from the borrower for the year the borrower certifies family size. Support includes money, gifts, loans, housing, food, clothes, car, medical and dental care, and payment of college costs.

(h) *Military service deferment.* (1) A Direct Loan borrower is eligible for a deferment during any period in which the borrower is—

(i) Serving on active duty during a war or other military operation or national emergency, as defined in paragraph (h)(5) of this section; or

(ii) Performing qualifying National Guard duty during a war or other military operation or national emergency, as defined in paragraph (h)(5) of this section.

(2) For a borrower whose active duty service includes October 1, 2007, or begins on or after that date, the deferment period ends 180 days after the demobilization date for each period of the service described in paragraphs (h)(1)(i) and (h)(1)(ii) of this section.

(3) Without supporting documentation, the military service deferment will be granted to an otherwise eligible borrower for a period not to exceed the initial 12 months from the date the qualifying eligible service began based on a request from the borrower or the borrower's representative.

(4) The provisions of paragraph (h) of this section do not authorize the refunding of any payments made by or on behalf of a borrower during a period for which the borrower qualified for a military service deferment.

(5) As used in paragraph (h) of this section—

(i) *Serving on active duty during a war or other military operation or national emergency* means service by an individual who is—

(A) A Reserve of an Armed Force ordered to active duty under 10 U.S.C. 12301(a), 12301(g), 12302, 12304, or 12306;

(B) A retired member of an Armed Force ordered to active duty under 10 U.S.C. 688 for service in connection with a war or other military operation or national emergency, regardless of the location at which such active duty service is performed; or

(C) Any other member of an Armed Force on active duty in connection with such emergency or subsequent actions or conditions who has been assigned to a duty station at a location other than the location at which the member is normally assigned;

(ii) *Qualifying National Guard duty during a war or other operation or national emergency* means service as a member of the National Guard on full-time National Guard duty, as defined in 10 U.S.C. 101(d)(5) under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under 32 U.S.C. 502(f) in connection with a war, other military operation, or national emergency declared by the President and supported by Federal funds;

(iii) *Active duty* means active duty as defined in 10 U.S.C. 101(d)(1) except that it does not include active duty for training or attendance at a service school;

(iv) *Military operation* means a contingency operation as defined in 10 U.S.C. 101(a)(13); and

(v) *National emergency* means the national emergency by reason of certain terrorist attacks declared by the President on September 14, 2001, or subsequent national emergencies declared by the President by reason of terrorist attacks.

(i) *Post-active duty student deferment.* (1) A Direct Loan borrower is eligible for a deferment for 13 months following the conclusion of the borrower's active duty military service and any applicable grace period if—

(i) The borrower is a member of the National Guard or other reserve component of the Armed Forces of the United States or a member of such forces in retired status; and

(ii) The borrower was enrolled on at least a half-time basis in a program of instruction at an eligible institution at the time, or within six months prior to the time, the borrower was called to active duty.

(2) As used in paragraph (i)(1) of this section, ''active duty'' means active duty as defined in 10 U.S.C. 101(d)(1) for at least a 30-day period, except that—

(i) Active duty includes active State duty for members of the National Guard under which a Governor activates National Guard personnel based on State statute or policy and the activities of the National Guard are paid for with State funds;

(ii) Active duty includes full-time National Guard duty under which a Governor is authorized, with the approval of the President or the U.S. Secretary of Defense, to order a member to State active duty and the activities of the National Guard are paid for with Federal funds;

(iii) Active duty does not include active duty for training or attendance at a service school; and

(iv) Active duty does not include employment in a full-time, permanent position in the National Guard unless the borrower employed in such a position is reassigned to active duty under paragraph (i)(2)(i) of this section or full-time National Guard duty under paragraph (i)(2)(ii) of this section.

(3) If the borrower returns to enrolled student status on at least a half-time basis during the grace period or the 13-month deferment period, the deferment expires at the time the borrower returns to enrolled student status on at least a half-time basis.

(4) If a borrower qualifies for both a military service deferment and a post-active duty student deferment, the 180-day post-demobilization military service deferment period and the 13-month post-active duty student deferment period apply concurrently.

(j) *Additional deferments for Direct Loan borrowers with FFEL Program loans made before July 1, 1993.* If, at the time of application for a borrower's first Direct Loan, a borrower has an outstanding balance of principal or interest owing on any FFEL Program loan that was made, insured, or guaranteed prior to July 1, 1993, the borrower is eligible for a deferment during—

(1) The periods described in paragraphs (b) through (i) of this section; and

(2) The periods described in 34 CFR 682.210(b), including those periods that apply to a ''new borrower'' as that term is defined in 34 CFR 682.210(b)(7).

(Approved by the Office of Management and Budget under control number 1845–0021)

(Authority: 20 U.S.C. 1087a *et seq.*)

■ 89. Section 685.205 is amended by:

■ A. In paragraph (a)(4), removing the word ''or'' that appears after the punctuation ''\;''.

■ B. Revising paragraph (a)(5).

■ C. Adding new paragraphs (a)(8) and (a)(9).

■ D. In paragraph (b)(2), removing the words ''authorized deferment period'' and adding, in their place, the words ''authorized deferment or forbearance period''.

The additions read as follows:

**§ 685.205 Forbearance.**

(a) * * *

(5)(i) The borrower is performing the type of service that would qualify the borrower for loan forgiveness under the requirements of the teacher loan forgiveness program in § 685.217.

(ii) Before a forbearance is granted under § 685.205(a)(5)(i), the borrower must—

(A) Submit documentation for the period of the annual forbearance request showing the beginning and ending dates that the borrower is expected to perform, for that year, the type of service described in § 685.217(c); and

(B) Certify the borrower's intent to satisfy the requirements of § 685.217(c).

(iii) The Secretary grants forbearance under paragraph (a)(5) of this section only if the Secretary believes, at the time of the borrower's annual request, that the expected forgiveness amount under § 685.217(d) will satisfy the anticipated remaining outstanding balance on the borrower's loan at the time of the expected forgiveness;

* * * * *

(8)(i) The Secretary may grant a forbearance to permit a borrower or endorser to resume honoring the agreement to repay the debt after default. The terms of the forbearance agreement in this situation must include a new agreement to repay the debt signed by the borrower or endorser or a written or oral affirmation of the borrower's or endorser's obligation to repay the debt.

(ii) If the forbearance is based on the borrower's or endorser's oral affirmation of the obligation to repay the debt, the forbearance period is limited to 120 days, such a forbearance is not granted consecutively, and the Secretary will—

(A) Orally review with the borrower the terms and conditions of the forbearance, including the consequences of interest capitalization, and all other repayment options available to the borrower;

(B) Send a notice to the borrower or endorser that confirms the terms of the forbearance and the borrower's or endorser's affirmation of the obligation to repay the debt and that includes information on all other repayment options available to the borrower; and

(C) Retain a record of the terms of the forbearance and affirmation in the borrower's or endorser's file.

(iii) For purposes of this section, an ''affirmation'' means an acknowledgement of the loan by the borrower or endorser in a legally binding manner. The form of the affirmation may include, but is not limited to, the borrower's or endorser's—

(A) New signed repayment agreement or schedule, or another form of signed agreement to repay the debt;

(B) Oral acknowledgement and agreement to repay the debt documented by the Secretary in the borrower's or endorser's file and confirmed by the Secretary in a notice to the borrower; or

(C) A payment made on the loan by the borrower or endorser.

(9)(i) The borrower is performing the type of service that would qualify the borrower for a partial repayment of his or her loan under the Student Loan Repayment Programs administered by the Department of Defense under 10 U.S.C. 2171, 2173, 2174, or any other student loan repayment programs administered by the Department of Defense.

(ii) To receive a forbearance under this paragraph, the borrower must submit documentation showing the time period during which the Department of Defense considers the borrower to be eligible for a partial repayment of his or her loan under a student loan repayment program.

* * * * *

**§ 685.206 [Amended]**

■ 90. Section 685.206 is amended by:

■ A. In the introductory text of paragraph (a), removing the word ''shall'' and adding, in its place, the word ''must''.

■ B. In paragraph (b)(1), removing the word ''shall'' and adding, in its place, the word ''must''.

■ C. In paragraph (b)(2), removing the word ''shall'' and adding, in its place, the word ''must''.

■ D. In paragraph (c)(1)(iv), removing the words ''Credit bureau'' and adding, in their place, the words ''Consumer reporting agency''.

■ E. In paragraph (c)(2)(iii), removing the words ''credit bureaus'' and adding, in their place, the words ''consumer reporting agencies''.

■ 91. Section 685.207 is amended by:

■ A. Revising paragraph (a)(2).

■ B. Adding a new paragraph (a)(3).

■ C. In paragraph (b)(1)(ii), removing the citation ''§ 685.204'' and adding, in its place, the citation ''§ 685.204(b)''.

■ D. Revising paragraph (b)(3).

The revisions and addition read as follows:

**§ 685.207 Obligation to repay.**

(a) * * *

(2) The borrower's repayment of a Direct Loan may also be subject to the deferment provisions in § 685.204, the forbearance provisions in § 685.205, the discharge provisions in § 685.212, and the loan forgiveness provisions in §§ 685.217 and 685.219.

(3) A borrower's first payment on a Direct Loan is due within 60 days of the beginning date of the repayment period as determined in accordance with

paragraph (b), (c), (d), or (e) of this section.

(b) * * *

(3)(i) A borrower is not obligated to pay interest on a Direct Subsidized Loan during periods when the borrower is enrolled at an eligible school on at least a half-time basis unless the borrower is required to make payments on the loan during those periods under paragraph (b)(1) of this section.

(ii) Except as provided in paragraph (b)(3)(iii) of this section, a borrower is not obligated to pay interest on a Direct Subsidized Loan during grace periods.

(iii) In the case of a Direct Subsidized Loan for which the first disbursement is made on or after July 1, 2012 and before July 1, 2014, a borrower is responsible for the interest that accrues during the grace period.

* * * * *

**§ 685.208 [Amended]**

■ 92. Section 685.208 is amended by:

■ A. In paragraph (a)(5), removing the words ''income contingent'' and adding, in their place, the words ''income-contingent''.

■ B. In paragraph (j)(1), removing the word ''then'' and adding, in its place, the word ''than''.

■ C. In paragraph (m)(1), adding the words ''or, for a new borrower as of July 1, 2014, as defined in § 685.221(a)(4), 10 percent'' immediately after the words ''15 percent''.

■ 93. Section 685.210 is amended by:

■ A. Revising paragraph (a)(2).

■ B. Revising the introductory text of paragraph (b)(1).

■ C. Revising paragraph (b)(1)(i).

■ D. In paragraph (b)(2)(i), removing the words ''income contingent'' and adding, in their place, the words ''income-contingent''.

The revisions read as follows:

**§ 685.210 Choice of repayment plan.**

(a) * * *

(2) If a borrower does not select a repayment plan, the Secretary designates the standard repayment plan described in § 685.208(b) or (c) for the borrower, as applicable.

(b) * * *

(1) A borrower may change repayment plans at any time after the loan has entered repayment by notifying the Secretary. However, a borrower who is repaying a defaulted loan under an income-contingent repayment plan or the income-based repayment plan in accordance with § 685.211(d)(3)(ii), or who is repaying a Direct Consolidation Loan under the income-contingent repayment plan or the income-based repayment plan in accordance with § 685.220(d)(1)(ii)(A)(*3*) may not change to another repayment plan unless—

(i) The borrower was required to and did make a payment under the income-contingent repayment plan or income-based repayment plan in each of the prior three months; or

* * * * *

■ 94. Section 685.211 is amended by:

■ A. In paragraph (d)(3)(i), removing the words ''national credit bureaus'' and adding, in their place, the words ''nationwide consumer reporting agencies''.

■ B. In paragraph (d)(3)(ii), removing the words ''income contingent'' and adding, in their place, the words ''income-contingent''.

■ C. Revising paragraph (f).

The revision reads as follows:

**§ 685.211 Miscellaneous repayment provisions.**

* * * * *

(f) *Rehabilitation of defaulted loans.* (1) A defaulted Direct Loan, except for a loan on which a judgment has been obtained, is rehabilitated if the borrower makes 9 voluntary, reasonable and affordable monthly payments within 20 days of the due date during 10 consecutive months. The Secretary determines the amount of a borrower's reasonable and affordable payment on the basis of a borrower's total financial circumstances.

(i) The Secretary initially considers the borrower's reasonable and affordable payment amount to be an amount equal to 15 percent of the amount by which the borrower's AGI exceeds 150 percent of the poverty guideline amount applicable to the borrower's family size and State, divided by 12, except that if this amount is less than $5, the borrower's monthly rehabilitation payment is $5.

(ii) The Secretary may calculate the payment amount based on information provided orally by the borrower or the borrower's representative and provide the borrower with a rehabilitation agreement using that amount. The Secretary requires the borrower to provide documentation to confirm the borrower's AGI and family size. If the borrower does not provide the Secretary with any documentation requested by the Secretary to calculate or confirm the reasonable and affordable payment amount within a reasonable time deadline set by the Secretary, the rehabilitation agreement provided is null and void.

(iii) A reasonable and affordable payment amount is not—

(A) A required minimum loan payment amount (*e.g.,* $50) if the Secretary determines that a smaller amount is reasonable and affordable;

(B) A percentage of the borrower's total loan balance; or

(C) Based on other criteria unrelated to the borrower's total financial circumstances.

(iv) Within 15 business days of the Secretary's determination of the borrower's loan rehabilitation payment amount, the Secretary provides the borrower with a written rehabilitation agreement which includes the borrower's reasonable and affordable payment amount, a prominent statement that the borrower may object orally or in writing to the reasonable and affordable payment amount with the method and timeframe for raising such an objection, a statement that the rehabilitation is null and void if the borrower does not provide the documentation required to calculate the reasonable and affordable payment amount, and an explanation of any other terms and conditions applicable to the required series of payments that must be made. To accept the agreement, the borrower must sign and return the agreement or accept the agreement electronically under a process provided by the Secretary. The Secretary does not impose any other conditions unrelated to the amount or timing of the rehabilitation payments in the rehabilitation agreement. The written rehabilitation agreement informs the borrower of the effects of having the loans rehabilitated (*e.g.,* removal of the record of default from the borrower's credit history and return to normal repayment).

(2) The Secretary provides the borrower with a written statement confirming the borrower's reasonable and affordable payment amount, as determined by the Secretary, and explaining any other terms and conditions applicable to the required series of payments that must be made before the borrower's account can be rehabilitated. The statement informs the borrower that the borrower may object to the terms and conditions of the rehabilitation agreement, and explains the method and timeframe for objecting to the terms and conditions of the rehabilitation agreement.

(3) If the borrower objects to the monthly payment amount determined under paragraph (f)(1) of this section, the Secretary recalculates the payment based solely on information provided on a form approved by the Secretary and, if requested, supporting documentation from the borrower and other sources, and considers—

(i) The borrower's, and if applicable, the spouse's current disposable income, including public assistance payments,

and other income received by the borrower and the spouse, such as welfare benefits, Social Security benefits, Supplemental Security Income, and workers' compensation. Spousal income is not considered if the spouse does not contribute to the borrower's household income;

(ii) Family size as defined in § 685.221(a)(3); and

(iii) Reasonable and necessary expenses, which include—

(A) Food;

(B) Housing;

(C) Utilities;

(D) Basic communication expenses;

(E) Necessary medical and dental costs;

(F) Necessary insurance costs;

(G) Transportation costs;

(H) Dependent care and other work-related expenses;

(I) Legally required child and spousal support;

(J) Other title IV and non-title IV student loan payments; and

(K) Other expenses approved by the Secretary.

(4) The Secretary provides the borrower with a new written rehabilitation agreement confirming the borrower's recalculated reasonable and affordable payment amount. To accept the agreement, the borrower must sign and return the agreement or accept the agreement electronically under a process provided by the Secretary.

(5) The Secretary includes any payment made under paragraph (1) of the definition of ''satisfactory repayment arrangement'' in § 685.102(b) in determining whether the 9 out of 10 payments required under paragraph (f)(1) of this section have been made.

(6) A borrower may request that the monthly payment amount be adjusted due to a change in the borrower's total financial circumstances only upon providing the documentation specified in paragraph (f)(3) of this section.

(7) During the rehabilitation period, the Secretary limits contact with the borrower on the loan being rehabilitated to collection activities that are required by law or regulation and to communications that support the rehabilitation.

(8) If a defaulted loan is rehabilitated, the Secretary instructs any consumer reporting agency to which the default was reported to remove the default from the borrower's credit history.

(9) A defaulted Direct Loan on which a judgment has been obtained may not be rehabilitated.

(10) A Direct Loan obtained by fraud for which the borrower has been convicted of, or has pled nolo contendere or guilty to, a crime involving fraud in obtaining title IV, HEA program assistance may not be rehabilitated.

(11)(i) If a borrower's loan is being collected by administrative wage garnishment while the borrower is also making monthly payments on the same loan under a loan rehabilitation agreement, the Secretary continues collecting the loan by administrative wage garnishment until the borrower makes five qualifying monthly payments under the rehabilitation agreement, unless the Secretary is otherwise precluded from doing so.

(ii) After the borrower makes the fifth qualifying monthly payment, the Secretary, unless otherwise directed by the borrower, suspends the garnishment order issued to the borrower's employer.

(iii) A borrower may only obtain the benefit of a suspension of administrative wage garnishment while also attempting to rehabilitate a defaulted loan once.

(12) Effective for any defaulted Direct Loan that is rehabilitated on or after August 14, 2008, the borrower cannot rehabilitate the loan again if the loan returns to default status following the rehabilitation.

* * * * *

**§ 685.212 [Amended]**

■ 95. Section 685.212 is amended by:

■ A. In paragraph (a)(3), removing the words ''Direct PLUS Consolidation Loan'' and adding, in their place, the words ''Direct Consolidation Loan''.

■ B. In paragraph (b), removing the citation ''§ 685.213(c)'' and adding, in its place, the citation ''§ 685.213''.

■ 96. Section 685.214 is amended by:

■ A. Revising paragraph (a)(2)(ii).

■ B. Revising paragraph (b)(4).

■ C. Revising paragraph (c).

■ D. In paragraph (d)(1), removing the word ''shall'' each time it appears and adding, in its place, the word ''must''.

■ E. In paragraph (f)(1), removing the number and words ''90 days'' and adding, in their place, the number and words ''120 days''.

The revisions read as follows:

**§ 685.214 Closed school discharge.**

(a) * * *

(2) * * *

(ii) ''School'' means a school's main campus or any location or branch of the main campus, regardless of whether the school or its location or branch is considered eligible.

(b) * * *

(4) The Secretary reports the discharge of a loan under this section to all consumer reporting agencies to which the Secretary previously reported the status of the loan, so as to delete all adverse credit history assigned to the loan.

(c) *Borrower qualification for discharge.* (1) In order to qualify for discharge of a loan under this section, a borrower must submit to the Secretary a written request and sworn statement, and the factual assertions in the statement must be true. The statement need not be notarized but must be made by the borrower under penalty of perjury. In the statement, the borrower must—

(i) State that the borrower (or the student on whose behalf a parent borrowed)—

(A) Received the proceeds of a loan, in whole or in part, on or after January 1, 1986 to attend a school;

(B) Did not complete the program of study at that school because the school closed while the student was enrolled, or the student withdrew from the school not more than 120 days before the school closed. The Secretary may extend the 120-day period if the Secretary determines that exceptional circumstances related to a school's closing justify an extension. Exceptional circumstances for this purpose may include, but are not limited to: the school's loss of accreditation; the school's discontinuation of the majority of its academic programs; action by the State to revoke the school's license to operate or award academic credentials in the State; or a finding by a State or Federal government agency that the school violated State or Federal law; and

(C) Did not complete the program of study through a teach-out at another school or by transferring academic credits or hours earned at the closed school to another school;

(ii) State whether the borrower (or student) has made a claim with respect to the school's closing with any third party, such as the holder of a performance bond or a tuition recovery program, and, if so, the amount of any payment received by the borrower (or student) or credited to the borrower's loan obligation; and

(iii) State that the borrower (or student)—

(A) Agrees to provide to the Secretary upon request other documentation reasonably available to the borrower that demonstrates that the borrower meets the qualifications for discharge under this section; and

(B) Agrees to cooperate with the Secretary in enforcement actions in accordance with paragraph (d) of this section and to transfer any right to recovery against a third party to the Secretary in accordance with paragraph (e) of this section.

(2) The Secretary may discharge a loan under this section without an application from the borrower if the Secretary determines, based on information in the Secretary's possession, that the borrower qualifies for the discharge.

* * * * *

■ 97. Section 685.215 is amended by:
■ A. In paragraph (a)(1)(iv), removing the citation ''§ 682.402(e)(14)'' and adding, in its place, the words ''paragraph (c)(4)(ii) of this section''.
■ B. Revising paragraph (b)(5).
■ C. In the introductory text of paragraph (c), removing the word ''shall'' each time it appears and adding, in its place, the word ''must''.
■ D. In the introductory text of paragraph (c)(1), removing the word ''shall'' and adding, in its place, the word ''must''.
■ E. In the introductory text of paragraph (c)(2), removing the word ''shall'' and adding, in its place, the word ''must''.
■ F. In the introductory text of paragraph (c)(3), removing the word ''shall'' and adding, in its place, the word ''must''.
■ G. Revising paragraph (c)(4).
■ H. In paragraph (c)(5), removing the word ''shall'' and adding, it its place, the word ''must''.
■ I. In the introductory text of paragraph (c)(6), removing the word ''shall'' and adding, in its place, the word ''must''.

The revisions read as follows:

**§ 685.215 Discharge for false certification of student eligibility or unauthorized payment.**

* * * * *

(b) * * *

(5) The Secretary reports the discharge under this section to all consumer reporting agencies to which the Secretary previously reported the status of the loan, so as to delete all adverse credit history assigned to the loan.

(c) * * *

(4) *Identity theft.* (i) In the case of an individual whose eligibility to borrow was falsely certified because he or she was a victim of the crime of identity theft and is requesting a discharge, the individual must—

(A) Certify that the individual did not sign the promissory note, or that any other means of identification used to obtain the loan was used without the authorization of the individual claiming relief;

(B) Certify that the individual did not receive or benefit from the proceeds of the loan with knowledge that the loan had been made without the authorization of the individual;

(C) Provide a copy of a local, State, or Federal court verdict or judgment that conclusively determines that the individual who is named as the borrower of the loan was the victim of a crime of identity theft; and

(D) If the judicial determination of the crime does not expressly state that the loan was obtained as a result of the crime of identity theft, provide—

(*1*) Authentic specimens of the signature of the individual, as provided in paragraph (c)(2)(ii) of this section, or of other means of identification of the individual, as applicable, corresponding to the means of identification falsely used to obtain the loan; and

(*2*) A statement of facts that demonstrate, to the satisfaction of the Secretary, that eligibility for the loan in question was falsely certified as a result of the crime of identity theft committed against that individual.

(ii)(A) For purposes of this section, identity theft is defined as the unauthorized use of the identifying information of another individual that is punishable under 18 U.S.C. 1028, 1028A, 1029, or 1030, or substantially comparable State or local law.

(B) Identifying information includes, but is not limited to—

(*1*) Name, Social Security number, date of birth, official State or government issued driver's license or identification number, alien registration number, government passport number, and employer or taxpayer identification number;

(*2*) Unique biometric data, such as fingerprints, voiceprint, retina or iris image, or unique physical representation;

(*3*) Unique electronic identification number, address, or routing code; or

(*4*) Telecommunication identifying information or access device (as defined in 18 U.S.C. 1029(e)).

* * * * *

**§ 685.216 [Amended]**

■ 98. Section 685.216(b)(2) is amended by removing the word ''credit'' and adding, in its place, the word ''consumer''.

■ 99. Section 685.217 is amended by:
■ A. Revising paragraph (a)(1).
■ B. In the last sentence of paragraph (a)(2)(i), adding the word ''for'' immediately before the words ''an eligible educational service agency''.
■ C. In paragraph (a)(2)(iii), removing the word ''at'' each time it appears and adding, in its place, the word ''for''.
■ D. In paragraph (a)(3), removing the words ''FFEL and Direct Loan'' and adding, in their place, the words ''Direct Loan and FFEL''.
■ E. In the introductory text of paragraph (a)(4), removing the words ''FFEL and Direct Loan'' and adding, in their place, the words ''Direct Loan and FFEL''.
■ F. In paragraph (a)(4)(i), removing the word ''at'' the second time it appears and adding, in its place, the word ''by''.
■ G. In paragraph (a)(4)(ii), adding the words ''by an eligible'' immediately before the words ''educational service agency''.
■ H. In the introductory text of paragraph (c)(1), adding the word ''by'' immediately before the words ''an educational service agency''.
■ I. In paragraph (c)(1)(iii), removing the last sentence.
■ J. Redesignating paragraphs (c)(2) through (c)(11) as paragraphs (c)(3) through (c)(12), respectively.
■ K. Adding a new paragraph (c)(2).
■ L. In redesignated paragraph (c)(4)(ii)(A), removing the word ''at'' the second time it appears and adding, in its place, the word ''for''.
■ M. In redesignated paragraph (c)(4)(ii)(B), adding the words ''for an eligible'' immediately before the words ''educational service agency''.
■ N. In redesignated paragraph (c)(4)(iii), removing the word ''at'' each time it appears and adding, in its place, the word ''for''.
■ O. In redesignated paragraph (c)(5)(i), adding the words ''for an eligible'' immediately before the words ''educational service agency''.
■ P. In redesignated paragraph (c)(5)(ii)(A), removing the word ''at'' the second time it appears and adding, in its place, the word ''for''.
■ Q. In redesignated paragraph (c)(5)(ii)(B), adding the words ''for an eligible'' immediately before the words ''educational service agency''.
■ R. In redesignated paragraph (c)(5)(iii), removing the word ''at'' each time it appears and adding, in its place, the word ''for''.
■ S. Revising the introductory text of redesignated paragraph (c)(7).
■ T. Revising redesignated paragraph (c)(9).
■ U. Revising redesignated paragraph (c)(10).
■ V. Adding a new paragraph (c)(13).
■ W. Revising paragraph (d)(1).
■ X. In paragraph (d)(2), removing the words ''paragraphs (c)(3)(ii) or (c)(4)(ii)'' and adding, in their place, the words ''paragraph (c)(4)(ii) or (c)(5)(ii)''.

The revisions and addition read as follows:

**§ 685.217 Teacher loan forgiveness program.**

(a) * * *

(1) The teacher loan forgiveness program is intended to encourage

individuals to enter and continue in the teaching profession. For new borrowers, the Secretary repays the amount specified in this paragraph (a) on the borrower's Direct Subsidized Loans, Direct Unsubsidized Loans, Subsidized and Unsubsidized Federal Stafford Loans, and in certain cases, Direct Consolidation Loans or Federal Consolidation Loans. The forgiveness program is only available to a borrower who has no outstanding loan balance under the Direct Loan Program or the FFEL Program on October 1, 1998, or who has no outstanding loan balance on the date he or she obtains a loan after October 1, 1998.

* * * * *

(c) * * *

(2) The Secretary considers all elementary and secondary schools operated by the Bureau of Indian Education (BIE) or operated on Indian reservations by Indian tribal groups under contract with the BIE to qualify as schools serving low-income students.

* * * * *

(7) For teacher loan forgiveness applications received by the Secretary on or after July 1, 2006, a teacher in a private, non-profit elementary or secondary school who is exempt from State certification requirements (unless otherwise applicable under State law) may qualify for loan forgiveness under paragraphs (c)(4)(ii) or (c)(5) of this section if—

* * * * *

(9) A borrower's period of postsecondary education, qualifying FMLA condition, or military active duty as described in paragraph (c)(8) of this section, including the time necessary for the borrower to resume qualifying teaching no later than the beginning of the next regularly scheduled academic year, does not constitute a break in the required five consecutive years of qualifying teaching service.

(10) A borrower who was employed as a teacher at more than one qualifying school, for more than one qualifying educational service agency, or a combination of both during an academic year and demonstrates that the combined teaching was the equivalent of full-time, as supported by the certification of one or more of the chief administrative officers of the schools or educational service agencies involved, is considered to have completed one academic year of qualifying teaching.

* * * * *

(13) A borrower may request forbearance during each of the five years of qualifying teaching service in accordance with § 685.205(a)(5).

(d) * * *

(1) A qualified borrower is eligible for forgiveness of up to $5,000, or up to $17,500 if the borrower meets the requirements of paragraph (c)(4)(ii) or (c)(5)(ii) of this section. The forgiveness amount is deducted from the aggregate amount of the borrower's Direct Subsidized Loan or Direct Unsubsidized Loan or Direct Consolidation Loan obligation that is outstanding after the borrower completes his or her fifth consecutive complete academic year of teaching as described in paragraph (c) of this section. Only the outstanding portion of the Direct Consolidation Loan that was used to repay an eligible Direct Subsidized Loan, an eligible Direct Unsubsidized Loan, or an eligible Subsidized or Unsubsidized Federal Stafford Loan qualifies for loan forgiveness under this section.

* * * * *

■ 100. Section 685.218 is amended by:

■ A. In paragraph (b)(4), removing the words ''FFEL or Direct'' and adding, in their place, the words ''Direct or FFEL''.

■ B. Revising paragraph (d)(3).

■ C. In paragraph (d)(6), removing the words ''a Perkins Loan, a FFEL Program loan, or another Direct Loan'' and adding, in their place, the words ''another Direct Loan, a FFEL Program Loan, or a Perkins Loan''.

■ D. In paragraph (d)(7), removing the words ''a FFEL Program Loan or another Direct Loan'' and adding, in their place, ''another Direct Loan or a FFEL Program Loan''.

■ E. In paragraph (e)(1)(ii), removing the number and word ''24 hours'' each time they appear and adding, in their place, the number and word ''72 hours''.

■ F. Revising paragraph (f)(4)(iii).

■ G. In paragraph (g)(2)(i), removing the words ''Direct Loans'' and adding, in their place, the words ''Direct Loan''.

The revisions read as follows:

**§ 685.218 Discharge of student loan indebtedness for survivors of victims of the September 11, 2001, attacks.**

* * * * *

(d) * * *

(3) If the individual owed a Direct Loan, a FFEL Program Loan, or a Perkins Loan at the time of the terrorist attacks on September 11, 2001, documentation that the individual's loans were discharged by the Secretary, the lender, or the institution due to death may be substituted for the original or certified copy of a death certificate.

* * * * *

(f) * * *

(4) * * *

(iii) Copies of approved joint Direct Loan or FFEL Consolidation Loan applications or an approved Direct or FFEL PLUS Loan application.

* * * * *

■ 101. Section 685.220 is revised to read as follows:

**§ 685.220 Consolidation.**

(a) *Direct Consolidation Loans.* A borrower may consolidate education loans made under certain Federal programs into a Direct Consolidation Loan. Loans consolidated into a Direct Consolidation Loan are discharged when the Direct Consolidation Loan is originated.

(b) *Loans eligible for consolidation.* The following loans may be consolidated into a Direct Consolidation Loan:

(1) Subsidized Federal Stafford Loans.

(2) Guaranteed Student Loans.

(3) Federal Insured Student Loans (FISL).

(4) Direct Subsidized Loans.

(5) Direct Subsidized Consolidation Loans.

(6) Federal Perkins Loans.

(7) National Direct Student Loans (NDSL).

(8) National Defense Student Loans (NDSL).

(9) Federal PLUS Loans.

(10) Parent Loans for Undergraduate Students (PLUS).

(11) Direct PLUS Loans.

(12) Direct PLUS Consolidation Loans.

(13) Federal Consolidation Loans.

(14) Unsubsidized Federal Stafford Loans.

(15) Federal Supplemental Loans for Students (SLS).

(16) Direct Unsubsidized Loans.

(17) Direct Unsubsidized Consolidation Loans.

(18) Auxiliary Loans to Assist Students (ALAS).

(19) Health Professions Student Loans (HPSL) and Loans for Disadvantaged Students (LDS) made under subpart II of part A of title VII of the Public Health Service Act.

(20) Health Education Assistance Loans (HEAL).

(21) Nursing loans made under subpart II of part B of title VIII of the Public Health Service Act.

(c) *Components of Direct Consolidation Loans.* (1) *Subsidized component of Direct Consolidation Loans.* The term ''Direct Subsidized Consolidation Loan'' refers to the portion of a Direct Consolidation Loan attributable to—

(i) The loans identified in paragraphs (b)(1) through (b)(5) of this section; and

(ii) The portion of a Federal Consolidation Loan under paragraph

(b)(13) of this section that is eligible for interest benefits during a deferment period under section 428C(b)(4)(C) of the Act.

(2) *Unsubsidized component of Direct Consolidation Loans.* Except as provided in paragraph (c)(3) of this section, the term ''Direct Unsubsidized Consolidation Loan'' refers to the portion of a Direct Consolidation Loan attributable to—

(i) The loans identified in paragraphs (b)(6) through (b)(12) of this section;

(ii) The portion of a Federal Consolidation Loan under paragraph (b)(13) of this section that is not eligible for interest benefits during a deferment period under section 428C(b)(4)(C) of the Act; and

(iii) The loans identified in paragraphs (b)(14) through (b)(21) of this section.

(3) *PLUS component of Direct Consolidation Loans.* In the case of a Direct Consolidation Loan made before July 1, 2006, the term ''Direct PLUS Consolidation Loan'' refers to the portion of a Direct Consolidation Loan attributable to the loans identified in paragraphs (b)(9) through (b)(12) of this section.

(d) *Eligibility for a Direct Consolidation Loan.* (1) A borrower may obtain a Direct Consolidation Loan if the borrower meets the following requirements:

(i) The borrower consolidates at least one Direct Loan Program or FFEL Program loan.

(ii) On the loans being consolidated, the borrower is—

(A) At the time the borrower applies for the Direct Consolidation Loan—

(*1*) In the grace period;

(*2*) In a repayment period but not in default; or

(*3*) In default but has made satisfactory repayment arrangements in accordance with paragraph (2) of the definition of that term in § 685.102(b);

(B) Not subject to a judgment secured through litigation, unless the judgment has been vacated; or

(C) Not subject to an order for wage garnishment under section 488A of the Act, unless the order has been lifted.

(iii) The borrower agrees to notify the Secretary of any change in address.

(2) A borrower may not consolidate a Direct Consolidation Loan or a Federal Consolidation Loan into a new consolidation loan under this section unless at least one additional eligible loan is included in the consolidation, except that a borrower may consolidate a Federal Consolidation Loan into a new consolidation loan under this section without including any additional loans if—

(i) The borrower has a Federal Consolidation Loan that is in default or has been submitted to the guaranty agency by the lender for default aversion, and the borrower wants to consolidate the Federal Consolidation Loan into the Direct Loan Program for the purpose of obtaining an income-contingent repayment plan or an income-based repayment plan; or

(ii) The borrower has a Federal Consolidation Loan and the borrower wants to consolidate that loan into the Direct Loan Program for the purpose of using the Public Service Loan Forgiveness Program or the no accrual of interest benefit for active duty service.

(3) Eligible loans received before or after the date a Direct Consolidation Loan is made may be added to a subsequent Direct Consolidation Loan.

(e) *Application for a Direct Consolidation Loan.* To obtain a Direct Consolidation Loan, a borrower must submit a completed application to the Secretary. A borrower may add eligible loans to a Direct Consolidation Loan by submitting a request to the Secretary within 180 days after the date on which the Direct Consolidation Loan is originated.

(f) *Origination of a consolidation loan.* (1)(i) The holder of a loan that a borrower wishes to consolidate into a Direct Loan must complete and return the Secretary's request for certification of the amount owed within 10 business days of receipt or, if it is unable to provide the certification, provide to the Secretary a written explanation of the reasons for its inability to provide the certification.

(ii) If the Secretary approves an application for a consolidation loan, the Secretary pays to each holder of a loan selected for consolidation the amount necessary to discharge the loan.

(iii) For a Direct Loan Program or FFEL Program loan that is in default, the Secretary limits collection costs that may be charged to the borrower to a maximum of 18.5 percent of the outstanding principal and interest amount of the defaulted loan. For any other defaulted Federal education loan, all collection costs that are owed may be charged to the borrower.

(2) Upon receipt of the proceeds of a Direct Consolidation Loan, the holder of a consolidated loan must promptly apply the proceeds to fully discharge the borrower's obligation on the consolidated loan. The holder of a consolidated loan must notify the borrower that the loan has been paid in full.

(3) The principal balance of a Direct Consolidation Loan is equal to the sum of the amounts paid to the holders of the consolidated loans.

(4) If the amount paid by the Secretary to the holder of a consolidated loan exceeds the amount needed to discharge that loan, the holder of the consolidated loan must promptly refund the excess amount to the Secretary to be credited against the outstanding balance of the Direct Consolidation Loan.

(5) If the amount paid by the Secretary to the holder of the consolidated loan is insufficient to discharge that loan, the holder must notify the Secretary in writing of the remaining amount due on the loan. The Secretary promptly pays the remaining amount due.

(g) *Interest rate.* The interest rate on a Direct Subsidized Consolidation Loan or a Direct Unsubsidized Consolidation Loan is the rate established in § 685.202(a)(10)(i). The interest rate on a Direct PLUS Consolidation Loan is the rate established in § 685.202(a)(10)(ii).

(h) *Repayment plans.* A borrower may choose a repayment plan for a Direct Consolidation Loan in accordance with § 685.208, and may change repayment plans in accordance with § 685.210(b).

(i) *Repayment period.* (1) Except as noted in paragraph (i)(4) of this section, the repayment period for a Direct Consolidation Loan begins on the day the loan is disbursed.

(2)(i) *Borrowers who entered repayment before July 1, 2006.* The Secretary determines the repayment period under § 685.208(i) on the basis of the outstanding balances on all of the borrower's loans that are eligible for consolidation and the balances on other education loans except as provided in paragraphs (i)(3)(i), (ii), and (iii) of this section.

(ii) Borrowers entering repayment on or after July 1, 2006. The Secretary determines the repayment period under § 685.208(j) on the basis of the outstanding balances on all of the borrower's loans that are eligible for consolidation and the balances on other education loans except as provided in paragraphs (i)(3)(i) through (iii) of this section.

(3)(i) The total amount of outstanding balances on the other education loans used to determine the repayment period under §§ 685.208(i) and (j) may not exceed the amount of the Direct Consolidation Loan.

(ii) The borrower may not be in default on the other education loan unless the borrower has made satisfactory repayment arrangements with the holder of the loan.

(iii) The lender of the other educational loan may not be an individual.

(4) A Direct Consolidation Loan that was made based on an application received before July 1, 2006 receives a grace period if it includes a Direct Loan Program or FFEL Program loan for which the borrower was in an in-school period at the time of consolidation. The repayment period begins the day after the grace period ends.

(j) *Repayment schedule.* (1) The Secretary provides a borrower of a Direct Consolidation Loan a repayment schedule before the borrower's first payment is due. The repayment schedule identifies the borrower's monthly repayment amount under the repayment plan selected.

(2) If a borrower adds an eligible loan to the consolidation loan under paragraph (e) of this section, the Secretary makes appropriate adjustments to the borrower's monthly repayment amount and repayment period.

(k) *Refunds and returns of title IV, HEA program funds received from schools.* If a lender receives a refund or return of title IV, HEA program funds from a school on a loan that has been consolidated into a Direct Consolidation Loan, the lender must transmit the refund or return and an explanation of the source of the refund or return to the Secretary within 30 days of receipt.

(l) *Special provisions for joint consolidation loans.* The provisions of paragraphs (l)(1) through (3) of this section apply to a Direct Consolidation Loan obtained by two married borrowers in accordance with the regulations that were in effect for consolidation applications received prior to July 1, 2006.

(1) *Deferment.* To obtain a deferment on a joint Direct Consolidation Loan under § 685.204, both borrowers must meet the requirements of that section.

(2) *Forbearance.* To obtain forbearance on a joint Direct Consolidation Loan under § 685.205, both borrowers must meet the requirements of that section.

(3) *Discharge.* (i) If a borrower dies and the Secretary receives the documentation described in § 685.212(a), the Secretary discharges an amount equal to the portion of the outstanding balance of the consolidation loan, as of the date of the borrower's death, attributable to any of that borrower's loans that were repaid by the consolidation loan.

(ii) If a borrower meets the requirements for total and permanent disability discharge under § 685.212(b), the Secretary discharges an amount equal to the portion of the outstanding balance of the consolidation loan, as of the date the borrower became totally and permanently disabled, attributable to any of that borrower's loans that were repaid by the consolidation loan.

(iii) If a borrower meets the requirements for discharge under § 685.212(d), (e), or (f) on a loan that was consolidated into a joint Direct Consolidation Loan, the Secretary discharges the portion of the consolidation loan equal to the amount of the loan that would be eligible for discharge under the provisions of § 685.212(d), (e), or (f) as applicable, and that was repaid by the consolidation loan.

(iv) If a borrower meets the requirements for loan forgiveness under § 685.212(h) on a loan that was consolidated into a joint Direct Consolidation Loan, the Secretary repays the portion of the outstanding balance of the consolidation loan attributable to the loan that would be eligible for forgiveness under the provisions of § 685.212(h), and that was repaid by the consolidation loan.

(Approved by the Office of Management and Budget under control number 1845–0021)

(Authority: 20 U.S.C. 1078–8, 1087a *et seq.*)

■ 102. Section 685.300 is amended by:
■ A. Revising paragraph (a).
■ B. In the introductory text of paragraph (b), removing the word ''shall'' each time it appears and adding, in its place, the word ''must''.
■ C. Removing paragraph (b)(8).
■ D. Redesignating paragraphs (b)(5), (6), and (7) as paragraphs (b)(6), (7), and (8), respectively.
■ E. Adding a new paragraph (b)(5).
■ F. Revising paragraph (c).

The revisions and addition read as follows:

**§ 685.300 Agreements between an eligible school and the Secretary for participation in the Direct Loan Program**

(a) *General.* Participation of a school in the Direct Loan Program means that eligible students at the school may receive Direct Loans. To participate in the Direct Loan Program, a school must—

(1) Demonstrate to the satisfaction of the Secretary that the school meets the requirements for eligibility under the Act and applicable regulations; and

(2) Enter into a written program participation agreement with the Secretary.

(b) * * *

(5) On a monthly basis, reconcile institutional records with Direct Loan funds received from the Secretary and Direct Loan disbursement records submitted to and accepted by the Secretary;

* * * * *

(c) *Origination.* A school that originates loans in the Direct Loan Program must originate loans to eligible students and parents in accordance with part D of the Act. The note or evidence of the borrower's obligation on the loan originated by the school is the property of the Secretary.

* * * * *

■ 103. Section 685.301 is revised to read as follows:

**§ 685.301 Origination of a loan by a Direct Loan Program school.**

(a) *Determining eligibility and loan amount.* (1) A school participating in the Direct Loan Program must ensure that any information it provides to the Secretary in connection with loan origination is complete and accurate. A school must originate a Direct Loan while the student meets the borrower eligibility requirements of § 685.200. Except as provided in 34 CFR part 668, subpart E, a school may rely in good faith upon statements made by the borrower and, in the case of a parent Direct PLUS Loan borrower, the student and the parent borrower.

(2) A school must provide to the Secretary borrower information that includes but is not limited to—

(i) The borrower's eligibility for a loan, as determined in accordance with § 685.200 and § 685.203;

(ii) The student's loan amount; and

(iii) The anticipated and actual disbursement date or dates and disbursement amounts of the loan proceeds, as determined in accordance with § 685.303(d).

(3) Before originating a Direct PLUS Loan for a graduate or professional student borrower, the school must determine the borrower's eligibility for a Direct Subsidized and a Direct Unsubsidized Loan. If the borrower is eligible for a Direct Subsidized or Direct Unsubsidized Loan, but has not requested the maximum Direct Subsidized or Direct Unsubsidized Loan amount for which the borrower is eligible, the school must—

(i) Notify the graduate or professional student borrower of the maximum Direct Subsidized or Direct Unsubsidized Loan amount that he or she is eligible to receive and provide the borrower with a comparison of—

(A) The maximum interest rate for a Direct Subsidized Loan and a Direct Unsubsidized Loan and the maximum interest rate for a Direct PLUS Loan;

(B) Periods when interest accrues on a Direct Subsidized Loan and a Direct Unsubsidized Loan, and periods when interest accrues on a Direct PLUS Loan; and

(C) The point at which a Direct Subsidized Loan and a Direct Unsubsidized Loan enters repayment, and the point at which a Direct PLUS Loan enters repayment; and

(ii) Give the graduate or professional student borrower the opportunity to request the maximum Direct Subsidized or Direct Unsubsidized Loan amount for which the borrower is eligible.

(4) A school may not originate a Direct Subsidized, Direct Unsubsidized, or Direct PLUS Loan, or a combination of loans, for an amount that—

(i) The school has reason to know would result in the borrower exceeding the annual or maximum loan amounts in § 685.203; or

(ii) Exceeds the student's estimated cost of attendance less—

(A) The student's estimated financial assistance for that period; and

(B) In the case of a Direct Subsidized Loan, the borrower's expected family contribution for that period.

(5)(i) A school determines a Direct Subsidized or Direct Unsubsidized Loan amount in accordance with § 685.203.

(ii) When prorating a loan amount for a student enrolled in a program of study with less than a full academic year remaining, the school need not recalculate the amount of the loan if the number of hours for which an eligible student is enrolled changes after the school originates the loan.

(6) The date of loan origination is the date a school creates the electronic loan origination record.

(7) If a student has received a determination of need for a Direct Subsidized Loan that is $200 or less, a school may choose not to originate a Direct Subsidized Loan for that student and to include the amount as part of a Direct Unsubsidized Loan.

(8) A school may refuse to originate a Direct Subsidized, Direct Unsubsidized, or Direct PLUS Loan or may reduce the borrower's determination of need for the loan if the reason for that action is documented and provided to the borrower in writing, and if—

(i) The determination is made on a case-by-case basis;

(ii) The documentation supporting the determination is retained in the student's file; and

(iii) The school does not engage in any pattern or practice that results in a denial of a borrower's access to Direct Loans because of the borrower's race, gender, color, religion, national origin, age, disability status, or income.

(9) A school may not assess a fee for the completion or certification of any Direct Loan Program forms or information or for the origination of a Direct Loan.

(10)(i) The minimum period of enrollment for which a school may originate a Direct Loan is—

(A) At a school that measures academic progress in credit hours and uses a semester, trimester, or quarter system, or that has terms that are substantially equal in length with no term less than nine weeks in length, a single academic term (e.g., a semester or quarter); or

(B) Except as provided in paragraph (a)(10)(ii) or (iii) of this section, at a school that measures academic progress in clock hours, or measures academic progress in credit hours but does not use a semester, trimester, or quarter system and does not have terms that are substantially equal in length with no term less than nine weeks in length, the lesser of—

(*1*) The length of the student's program (or the remaining portion of that program if the student has less than the full program remaining) at the school; or

(*2*) The academic year as defined by the school in accordance with 34 CFR 668.3.

(ii) For a student who transfers into a school from another school and the prior school originated a loan for a period of enrollment that overlaps the period of enrollment at the new school, the new school may originate a loan for the remaining portion of the program or academic year. In this case the school may originate a loan for an amount that does not exceed the remaining balance of the student's annual loan limit.

(iii) For a student who completes a program at a school, where the student's last loan to complete that program had been for less than an academic year, and the student then begins a new program at the same school, the school may originate a loan for the remainder of the academic year. In this case the school may originate a loan for an amount that does not exceed the remaining balance of the student's annual loan limit at the loan level associated with the new program.

(iv) The maximum period for which a school may originate a Direct Loan is—

(A) Generally an academic year, as defined by the school in accordance with 34 CFR 668.3, except that the school may use a longer period of time corresponding to the period to which the school applies the annual loan limits under § 685.203; or

(B) For a defaulted borrower who has regained eligibility, the academic year in which the borrower regained eligibility.

(b) *Promissory note handling.* (1) The Secretary provides promissory notes for use in the Direct Loan Program. A school may not modify, or make any additions to, the promissory note without the Secretary's prior written approval.

(2) A school that originates a loan must ensure that the loan is supported by a completed promissory note as proof of the borrower's indebtedness.

(c) *Reporting to the Secretary.* The Secretary accepts a student's Payment Data that is submitted in accordance with procedures established through publication in the **Federal Register,** and that contains information the Secretary considers to be accurate in light of other available information including that previously provided by the student and the institution. (Approved by the Office of Management and Budget under control number 1845–0021)

(Authority: 20 U.S.C. 1087a *et seq.*)

■ 104. Section 685.303 is amended by:

■ A. In paragraph (a), removing the word ''shall'' and adding, in its place, the word ''must''.

■ B. Revising paragraph (b)(1).

■ C. Redesignating paragraphs (b)(2) through (b)(4) as paragraphs (b)(3) through (b)(5), respectively.

■ D. Adding a new paragraph (b)(2).

■ E. Revising redesignated paragraph (b)(3)(i).

■ F. Revising redesignated paragraph (b)(3)(ii).

■ G. Revising redesignated paragraph (b)(5)(i) introductory text.

■ H. In redesignated paragraph (b)(5)(i)(A)(*1*), removing the citation ''(b)(4)(i)(A)(*2*)'' and adding, in its place, the citation ''(b)(5)(i)(A)(*2*)''.

■ I. Revising redesignated paragraph (b)(5)(ii).

■ J. In redesignated paragraph (b)(5)(iii), removing the citation ''(b)(4)(i)(B)'' and adding, in its place, the citation ''(b)(5)(i)(B)''.

■ K. In paragraph (c), removing the word ''shall'' and adding, in its place, the word ''must''.

■ L. Redesignating paragraphs (d) and (e) as paragraphs (f) and (g), respectively.

■ M. Adding a new paragraph (d).

■ N. Adding a new paragraph (e).

■ O. Revising redesignated paragraph (g).

■ P. Adding an authority citation after the OMB control number parenthetical at the end of the section.

The revisions and additions read as follows:

**§ 685.303 Processing loan proceeds.**

* * * * *

(b) * * *

(1) A school may not disburse loan proceeds to a borrower unless the borrower has executed a legally enforceable promissory note.

(2) The Secretary provides Direct Loan funds to a school in accordance with 34 CFR 668.162.

(3)(i) Except in the case of a late disbursement under paragraph (f) of this section, or as provided in paragraph (b)(3)(iii) of this section, a school may disburse loan proceeds only to a student, or a parent in the case of a Direct PLUS Loan obtained by a parent borrower, if the school determines the student has continuously maintained eligibility in accordance with the provisions of § 685.200 from the beginning of the loan period for which the loan was intended.

(ii) If a student delays attending school for a period of time, the school may consider that student to have maintained eligibility for the loan from the first day of the period of enrollment. However, the school must comply with the requirements under paragraph (b)(4) of this section.

* * * * *

(5)(i) If a student is enrolled in the first year of an undergraduate program of study and has not previously received a Direct Subsidized Loan, a Direct Unsubsidized Loan, a Subsidized or Unsubsidized Federal Stafford Loan, or a Federal Supplemental Loan for Students, a school may not disburse the proceeds of a Direct Subsidized or Direct Unsubsidized Loan until 30 days after the first day of the student's program of study unless—

* * * * *

(ii) Paragraphs (b)(5)(i)(A) and (B) of this section do not apply to any loans originated by the school beginning 30 days after the date the school receives notification from the Secretary of a cohort default rate, calculated under subpart M or subpart N of 34 CFR part 668, that causes the school to no longer meet the qualifications outlined in paragraph (b)(5)(i)(A) or (B) of this section, as applicable.

* * * * *

(d) *Determining disbursement dates and amounts.* (1) Before disbursing a loan, a school must determine that all information required by the promissory note has been provided by the borrower and, if applicable, the student.

(2) An institution must disburse the loan proceeds on a payment period basis in accordance with 34 CFR 668.164(b).

(3) Unless paragraph (d)(4) or (d)(6) of this section applies—

(i) If a loan period is more than one payment period, the school must disburse loan proceeds at least once in each payment period; and

(ii) If a loan period is one payment period, the school must make at least two disbursements during that payment period.

(A) For a loan originated under § 685.301(a)(10)(i)(A), the school may not make the second disbursement until the calendar midpoint between the first and last scheduled days of class of the loan period.

(B) For a loan originated under § 685.301(a)(10)(i)(B), the school may not make the second disbursement until the student successfully completes half of the number of credit hours or clock hours and half of the number of weeks of instructional time in the payment period.

(4)(i) If one or more payment periods have elapsed before a school makes a disbursement, the school may include in the disbursement loan proceeds for completed payment periods.

(ii) If the loan period is equal to one payment period and more than one-half of it has elapsed, the school may include in the disbursement loan proceeds for the entire payment period.

(5) The school must disburse loan proceeds in substantially equal installments, and no installment may exceed one-half of the loan.

(6)(i) A school is not required to make more than one disbursement if—

(A)(*1*) The loan period is not more than one semester, one trimester, one quarter, or, for non term-based schools or schools with non-standard terms, 4 months; and

(*2*)(*i*) Except as provided in paragraph (d)(6)(i)(A)(*2*)(*ii*) of this section, the school has a cohort default rate, calculated under subpart M of 34 CFR part 668 of less than 10 percent for each of the three most recent fiscal years for which data are available; or

(*ii*) For loan disbursements made on or after October 1, 2011, the school in which the student is enrolled has a cohort default rate, calculated under either subpart M or subpart N of 34 CFR part 668, of less than 15 percent for each of the three most recent fiscal years for which data are available; or

(B) The school is an eligible home institution originating a loan to cover the cost of attendance in a study abroad program and has a cohort default rate, calculated under subpart M or subpart N of 34 CFR part 668, of less than five percent for the single most recent fiscal year for which data are available.

(ii) Paragraphs (d)(6)(i)(A) and (B) of this section do not apply to any loans originated by the school beginning 30 days after the date the school receives notification from the Secretary of a cohort default rate, calculated under subpart M or subpart N of 34 CFR part 668, that causes the school to no longer meet the qualifications outlined in paragraph (d)(6)(i)(A) or (B) of this section, as applicable.

(iii) Paragraph (d)(6)(i)(B) of this section does not apply to any loans originated by the school beginning 30 days after the date the school receives notification from the Secretary of a cohort default rate, calculated under subpart M or subpart N of 34 CFR part 668, that causes the school to no longer meet the qualifications outlined in that paragraph.

(e) *Annual loan limit progression based on completion of an academic year.* (1) If a school measures academic progress in an educational program in credit hours and uses either standard terms (semesters, trimesters, or quarters) or nonstandard terms that are substantially equal in length, and each term is at least nine weeks of instructional time in length, a student is considered to have completed an academic year and progresses to the next annual loan limit when the academic year calendar period has elapsed.

(2) If a school measures academic progress in an educational program in credit hours and uses nonstandard terms that are not substantially equal in length or each term is not at least nine weeks of instructional time in length, or measures academic progress in credit hours and does not have academic terms, a student is considered to have completed an academic year and progresses to the next annual loan limit at the later of—

(i) The student's completion of the weeks of instructional time in the student's academic year; or

(ii) The date, as determined by the school, that the student has successfully completed the academic coursework in the student's academic year.

(3) If a school measures academic progress in an educational program in clock hours, a student is considered to have completed an academic year and progresses to the next annual loan limit at the later of—

(i) The student's completion of the weeks of instructional time in the student's academic year; or

(ii) The date, as determined by the school, that the student has successfully completed the clock hours in the student's academic year.

(4) For purposes of this section, terms in a loan period are substantially equal in length if no term in the loan period is more than two weeks of instructional time longer than any other term in that loan period.

* * * * *

(g) *Treatment of excess loan proceeds.* Before the disbursement of any Direct

Subsidized Loan, Direct Unsubsidized Loan, or Direct PLUS Loan proceeds, if a school learns that the borrower will receive or has received financial aid for the period of enrollment for which the loan was intended that exceeds the amount of assistance for which the student is eligible (except for Federal Work-Study Program funds up to $300), the school must reduce or eliminate the overaward by either—

(1) Using the student's Direct Unsubsidized Loan, Direct PLUS Loan, or State-sponsored or another non-Federal loan to cover the expected family contribution, if not already done; or

(2) Reducing one or more subsequent disbursements to eliminate the overaward.

* * * * *

(Authority: 20 U.S.C. 1087a *et seq.*)

■ 105. Section 685.304 is amended by:

■ A. Revising paragraph (a)(1).

■ B. In paragraph (a)(2), removing the words ''prior Direct PLUS Loan or Federal PLUS Loan'' and adding, in their place, the words ''prior student Direct PLUS Loan or student Federal PLUS Loan''.

■ C. In paragraph (a)(7)(i)(A), removing the word ''or'' the first time it appears and adding, in its place, the word ''of''.

■ D. Revising paragraph (a)(7)(iii).

■ E. Revising paragraph (a)(7)(iv).

■ F. Revising paragraph (b)(3).

■ G. In paragraph (b)(4)(ii), removing the words ''income contingent repayment plans'' and adding, in their place, the words ''income-contingent repayment''.

■ H. Adding a new paragraph (b)(8).

The revisions and addition read as follows:

**§ 685.304 Counseling borrowers.**

(a) * * *

(1) Except as provided in paragraph (a)(8) of this section, a school must ensure that entrance counseling is conducted with each Direct Subsidized Loan or Direct Unsubsidized Loan student borrower prior to making the first disbursement of the proceeds of a loan to a student borrower unless the student borrower has received a prior Direct Subsidized Loan, Direct Unsubsidized Loan, Subsidized or Unsubsidized Federal Stafford Loan, or Federal SLS Loan.

* * * * *

(7) * * *

(iii) For a graduate or professional student Direct PLUS Loan borrower who has received a prior Direct Subsidized Loan, Direct Unsubsidized Loan, Subsidized Federal Stafford Loan, or Unsubsidized Federal Stafford Loan, provide the information specified in § 685.301(a)(3)(i)(A) through (a)(3)(i)(C); and

(iv) For a graduate or professional student Direct PLUS Loan borrower who has not received a prior Direct Subsidized Loan, Direct Unsubsidized Loan, Subsidized Federal Stafford Loan, or Unsubsidized Federal Stafford Loan, provide the information specified in paragraph (a)(6)(i) through paragraph (a)(6)(xii) of this section.

* * * * *

(b) * * *

(3) If a student borrower withdraws from school without the school's prior knowledge or fails to complete the exit counseling as required, exit counseling must, within 30 days after the school learns that the student borrower has withdrawn from school or failed to complete the exit counseling as required, be provided either through interactive electronic means, by mailing written counseling materials to the student borrower at the student borrower's last known address, or by sending written counseling materials to an email address provided by the student borrower that is not an email address associated with the school sending the counseling materials.

* * * * *

(8)(i) For students who have received loans under both the FFEL Program and the Direct Loan Program for attendance at a school, the school's compliance with the exit counseling requirements in paragraph (b) of this section satisfies the exit counseling requirements in 34 CFR 682.604(a) if the school ensures that the exit counseling also provides the borrower with the information described in 34 CFR 682.604(a)(2)(i) and (ii).

(ii) A student's completion of electronic interactive exit counseling offered by the Secretary satisfies the requirements of paragraph (b) of this section and, for students who have also received FFEL Program loans for attendance at the school, 34 CFR 682.604(a).

* * * * *

**§ 685.305 [Amended]**

■ 106. Section 685.305 is amended by:

■ A. In paragraph (a), removing the word ''shall'' and adding, in its place, the word ''must''.

■ B. In paragraph (b), removing the word ''shall'' and adding, in its place, the word ''must''.

■ C. In paragraph (c), removing the word ''shall'' and adding, it its place, the word ''must''.

**§ 685.306 [Amended]**

■ 107. Section 685.306 is amended by:

■ A. In paragraph (a)(1), removing the word ''Shall'' and adding, in its place, the word ''Must''.

■ B. In paragraph (a)(2), removing the word ''Shall'' and adding, in its place, the word ''Must''.

■ C. In paragraph (b), removing the word ''shall'' and adding, in its place, the word ''must''.

**§ 685.307 [Amended]**

■ 108. Section 685.307(b) is amended by removing the word ''shall'' and adding, in its place, the word ''must''.

■ 109. Section 685.309 is amended by:

■ A. In the introductory text of paragraph (a), removing the word ''shall'' and adding, in its place, the word ''must''.

■ B. Revising paragraph (b).

■ C. In paragraph (c), removing the word ''shall'' and adding, in its place, the word ''must''.

■ D. In paragraph (d), removing the word ''shall'' and adding, in its place, the word ''must''.

■ E. In paragraph (e), removing the word ''shall'' and adding, in its place, the word ''must''.

■ F. In paragraph (f), removing the word ''shall'' and adding, in its place, the word ''must''.

■ G. In paragraph (g), removing the words ''Except for funds paid to a school under section 452(b)(1) of the Act, funds'' and adding, in their place, the word ''Funds''.

The revision reads as follows:

**§ 685.309 Administrative and fiscal control and fund accounting requirements for schools participating in the Direct Loan Program.**

* * * * *

(b) *Enrollment reporting process.* (1) Upon receipt of an enrollment report from the Secretary, a school must update all information included in the report and return the report to the Secretary—

(i) In the manner and format prescribed by the Secretary; and

(ii) Within the timeframe prescribed by the Secretary.

(2) Unless it expects to submit its next updated enrollment report to the Secretary within the next 60 days, a school must notify the Secretary within 30 days after the date the school discovers that—

(i) A loan under title IV of the Act was made to or on behalf of a student who was enrolled or accepted for enrollment at the school, and the student has ceased to be enrolled on at least a half-time basis or failed to enroll on at least a half-time basis for the period for which the loan was intended; or

(ii) A student who is enrolled at the school and who received a loan under title IV of the Act has changed his or her permanent address.

* * * * *

## Subpart D [Removed and Reserved]

■ 110. Subpart D of part 685 is removed and reserved.

[FR Doc. 2013–25331 Filed 10–31–13; 8:45 am]

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Part III

## Department of the Interior

Fish and Wildlife Service

50 CFR Parts 10 and 21

General Provisions; Revised List of Migratory Birds; Final Rule

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Parts 10 and 21**

**[Docket No. FWS–R9–MB–2010–0088, FF09M21200–134–FXMB1231099BPP0]**

**RIN 1018–AX48**

## General Provisions; Revised List of Migratory Birds

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, revise the List of Migratory Birds by both adding and removing species. Reasons for the changes to the list include adding species based on new taxonomy and new evidence of occurrence in the United States or U.S. territories, removing species no longer known to occur within the United States, and changing names to conform to accepted use. The net increase of 19 species (23 added and 4 removed) brings the total number of species protected by the Migratory Bird Treaty Act (MBTA) to 1,026. We regulate most aspects of the taking, possession, transportation, sale, purchase, barter, exportation, and importation of migratory birds. An accurate and up-to-date list of species protected by the MBTA is essential for public notification and regulatory purposes.

**DATES:** This rule is effective December 2, 2013.

**FOR FURTHER INFORMATION CONTACT:** George Allen at 703–358–1825.

**SUPPLEMENTARY INFORMATION:**

### Background

### What statutory authority does the service have for this rulemaking?

We have statutory authority and responsibility for enforcing the Migratory Bird Treaty Act (MBTA) (16 U.S.C. 703–712), the Fish and Wildlife Improvement Act of 1978 (16 U.S.C. 742l), and the Fish and Wildlife Act of 1956 (16 U.S.C. 742a–j). The MBTA implements Conventions between the United States and four neighboring countries for the protection of migratory birds, as follows:

(1) Canada: Convention between the United States and Great Britain [on behalf of Canada] for the Protection of Migratory Birds, August 16, 1916, 39 Stat. 1702 (T.S. No. 628);

(2) Mexico: Convention between the United States and Mexico for the Protection of Migratory Birds and Game Mammals, February 7, 1936, 50 Stat. 1311 (T.S. No. 912);

(3) Japan: Convention between the Government of the United States of America and the Government of Japan for the Protection of Migratory Birds and Birds in Danger of Extinction, and Their Environment, March 4, 1972, 25 U.S.T. 3329 (T.I.A.S. No. 7990); and

(4) Russia: Convention between the United States of America and the Union of Soviet Socialist Republics Concerning the Conservation of Migratory Birds and Their Environment (Russia), November 19, 1976, 29 U.S.T. 4647 (T.I.A.S. No. 9073).

### What is the purpose of this rulemaking?

Our purpose is to inform the public of the species protected by the MBTA and its implementing regulations. These regulations are found in Title 50, Code of Federal Regulations (CFR), Parts 10, 20, and 21. We regulate most aspects of the taking, possession, transportation, sale, purchase, barter, exportation, and importation of migratory birds. An accurate and up-to-date list of species protected by the MBTA is essential for regulatory purposes.

### Why is this amendment of the list of migratory birds necessary?

The amendment is needed to: (1) Add five species previously overlooked from a family protected under the MBTA; (2) correct the spelling of six species on the alphabetized list; (3) correct the spelling of three species on the taxonomic list; (4) add 11 species based on new distributional records documenting their natural occurrence in the United States since April 2007; (5) add one species from a family now protected under the MBTA as a result of taxonomic changes; (6) add six species newly recognized as a result of recent taxonomic changes; (7) remove four species not known to occur within the boundaries of the United States or its territories as a result of recent taxonomic changes; (8) change the common (English) names of nine species to conform with accepted use; and (9) change the scientific names of 36 species to conform to accepted use.

The List of Migratory Birds (50 CFR 10.13) was last revised on March 1, 2010 (75 FR 9282). These amendments were necessitated by three published supplements to the 7th (1998) edition of the American Ornithologists' Union's (AOU's) *Check-list of North American birds* (AOU 2008, AOU 2009, and AOU 2010).

In addition, we correct the legal authorities citations at 50 CFR 10.13(a).

We also make a small change to a definition in 50 CFR 21.3. We update the definition of ''raptor'' to also include the Order Accipitriformes, corresponding to recent taxonomic changes reflected in the List of Migratory Birds.

### What scientific authorities are used to amend the list of migratory birds?

Although bird names (common and scientific) are relatively stable, staying current with standardized use is necessary to avoid confusion in communications. In making our determinations, we primarily relied on the American Ornithologists' Union's *Check-list of North American birds* (AOU 1998), as amended (AOU 1999, 2000, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, and 2010), on matters of taxonomy, nomenclature, and the sequence of species and other higher taxonomic categories (orders, families, subfamilies) for species that occur in North America. The AOU Checklist contains all bird species that have occurred in North America from the Arctic through Panama, including the West Indies and the Hawaiian Islands, and includes distributional information for each species, which specifies whether the species is known to occur in the United States. For the 39 species that occur outside the geographic area covered by the *Check-list* (28 that occur in the Pacific island territories and 11 listed in the Japanese and/or Russian conventions that have not occurred in the AOU area), we relied primarily on Clements (2007). Although we primarily rely on the above checklists, when informed taxonomic opinion is inconsistent or controversial, we evaluate available published and unpublished information and come to our own conclusion regarding the validity of taxa.

### What criteria are used to identify individual species protected by the MBTA?

A species qualifies for protection under the MBTA by meeting one or more of the following four criteria:

(1) It is covered by the Canadian Convention of 1916, as amended in 1996, by virtue of meeting the following three criteria: (a) It belongs to a family or group of species named in the Canadian Convention, as amended; (b) specimens, photographs, videotape recordings, or audiotape recordings provide convincing evidence of natural occurrence in the United States or its territories; and (c) the documentation of such records has been recognized by the AOU or other competent scientific authorities.

(2) It is covered by the Mexican Convention of 1936, as amended in

1972, by virtue of meeting the following three criteria: (a) It belongs to a family or group of species named in the Mexican Convention, as amended; (b) specimens, photographs, videotape recordings, or audiotape recordings provide convincing evidence of natural occurrence in the United States or its territories; and (c) the documentation of such records has been recognized by the AOU or other competent scientific authorities.

(3) It is listed in the annex to the Japanese Convention of 1972, as amended.

(4) It is listed in the appendix to the Russian Convention of 1976.

In accordance with the Migratory Bird Treaty Reform Act of 2004 (MBTRA) (Pub. L. 108–447, 118 Stat. 2809, 3071–72), we include all species native to the United States or its territories, which are those that occur as a result of natural biological or ecological processes (see 70 FR 12710, March 15, 2005). We do not include nonnative species whose occurrences in the United States are solely the result of intentional or unintentional human-assisted introduction(s).

**How do the changes affect the list of migratory birds?**

Several taxonomic changes were made at the Order and Family level by the AOU since our 2010 publication of the list (75 FR 9282, March 1, 2010). These changes affect the inclusion and taxonomic order of species on this list. Specifically, the Orders Phaethontiformes and Suliformes were split from the Pelecaniformes. Phaethontiformes now includes the Family Phaethontidae (tropicbirds); Suliformes now includes the Families Fregatidae (frigatebirds), Sulidae (boobys), Phalacrocoracidae (cormorants), and Anhingidae (anhingas). In addition, the Order Accipitriformes was split from the Falconiformes and now include the Families Cathartidae (vultures), Pandionidae (Osprey), and Accipitridae (hawks and eagles). At the Family level, the Ardeidae (herons and egrets) and Threskiornithidae (ibis and spoonbills) were moved from the Ciconiiformes to the Pelecaniformes Order, the Pandionidae (Osprey) was split from the Accipitridae (hawks and eagles), and the Stercorariidae (jaegers and skuas) was split from the Laridae (gulls, terns, and skimmers). The Polioptilidae (gnatcatchers), Phylloscopidae (*Phylloscopus* warblers), Acrocephalidae (*Acrocephalus* warblers), and Megaluridae (*Locustella* warblers) were split from the Sylviidae, and the Calcariidae (longspurs and snow buntings) was split from the Emberizidae (buntings and sparrows). The euphonias were put into their own Subfamily (Euphoniinae) and moved from the Thraupidae to the Fringillidae Family. All species within these newly created Families continue to be protected under the MBTA. In addition, the Wrentit was moved from the Timaliidae (babblers) to the Sylviidae and is now in a Family protected by the MBTA.

The amendments (23 additions, 4 removals, and 54 name changes) affect a grand total of 79 species and result in a net addition of 19 species to the List of Migratory Birds, increasing the species total from 1,007 to 1,026. Of the 23 species that we add to the list, 6 were previously covered under the MBTA as subspecies of listed species. These amendments can be logically arranged in the following 9 categories:

(1) Add five species from the family Muscicapidae, a family specifically listed in the 1996 protocol amending the 1916 convention with Canada. The omission of these species on the previous list was an oversight. All are considered accidental or casual in Alaska. The species and relevant AOU publication(s) are:

Mugimaki Flycatcher, *Ficedula mugimaki* (AOU 1987, 1997, 1998);

Taiga Flycatcher, *Ficedula albicilla* (AOU 1982, 1983, 1998, 2006);

Dark-sided Flycatcher, *Muscicapa sibirica* (AOU 1982, 1983, 1998, 2004);

Asian Brown Flycatcher, *Muscicapa dauurica* (AOU 1987, 1989, 1998); and

Spotted Flycatcher, *Muscicapa striata* (AOU 2004).

(2) Correct the spelling of six scientific names on the alphabetized list:

*Nesofregata fuliginosa* (Polynesian Storm-Petrel), becomes *Nesofregetta fuliginosa;*

*Thalleseus maximus* (Royal Tern), becomes *Thalasseus maximus;*

*Thalleseus sandvicensis* (Sandwich Tern), becomes *Thalasseus sandvicensis;*

*Vireo atricapillus* (Black-capped Vireo), becomes *Vireo atricapilla;*

*Phylloscopus siilatrix* (Wood Warbler), becomes *Phylloscopus sibilatrix;* and

*Locustella lanceoloata* (Lanceolated Warbler), becomes *Locustella lanceolata.*

(3) Correct the spelling of three scientific names on the taxonomic list:

*Nesofregetta fuiginosa* (Polynesian Storm-Petrel), becomes *Nesofregetta fuliginosa;*

*Vireo atricapillus* (Black-capped Vireo), becomes *Vireo atricapilla;* and

*Tiaris olivacea* (Yellow-faced Grassquit), becomes *Tiaris olivaceus.*

(4) Add 11 species based on review and acceptance by AOU (since April 2007) of new distributional records documenting their occurrence in the United States, Puerto Rico, or the U.S. Virgin Islands. These species belong to families covered by the Canadian and/or Mexican Conventions, and all are considered to be of accidental or casual occurrence. For each species, we list the State in which it has been recorded plus the relevant publication:

Parkinson's Petrel, *Procellaria parkinsoni*—California (AOU 2008);

Swinhoe's Storm-Petrel, *Oceanodroma monorhis*—North Carolina (AOU 2010);

Swallow-tailed Gull, *Creagrus furcatus*—California (AOU 2008);

Brown Hawk-Owl, *Ninox scutulata*—Alaska (AOU 2009);

White-crested Elaenia, *Elaenia albiceps*—Texas (AOU 2010);

Crowned Slaty Flycatcher, *Empidonomus aurantioatrocristatus*—Louisiana (AOU 2010);

Sinaloa Wren, *Thryothorus sinaloa*—Arizona (AOU 2010);

Pallas's Leaf-Warbler, *Phylloscopus proregulus*—Alaska (AOU 2008);

Sedge Warbler, *Acrocephalus schoenobaenus*—Alaska (AOU 2009);

Rufous-tailed Robin, *Luscinia sibilans*—Alaska (AOU 2010); and

Yellow-browed Bunting, *Emberiza chrysophrys*—Alaska (AOU 2009).

(5) Add one species because of recent taxonomic changes transferring a species in a family formerly not protected by the MBTA (Timaliidae) into a family protected under the MBTA (Sylviidae). We reference the AOU publication supporting the change:

Wrentit, *Chamaea fasciata* (AOU 2010).

(6) Add six species because of recent taxonomic changes in which taxa formerly treated as subspecies have been determined to be distinct species. Given that each of these species was formerly treated as subspecies of a listed species, these additions will not change the protective status of any of these taxa, only the names by which they are known. In each case, we reference the AOU publication supporting the change:

Eastern Spot-billed Duck, *Anas zonorhyncha*—formerly considered a subspecies of *Anas poecilorhyncha,* Spot-billed Duck (AOU 2008);

Black Scoter, *Melanitta americana*—formerly treated as a subspecies of *Melanitta nigra,* Common [Black] Scoter (AOU 2009);

Mexican Whip-poor-will, *Caprimulgus arizonae*—formerly treated as a subspecies of *Caprimulgus vociferus,* Whip-poor-will (AOU 2010);

Pacific Wren, *Troglodytes pacificus*—formerly treated as a subspecies of

*Troglodytes troglodytes,* Eurasian [Winter] Wren (AOU 2010);

Winter Wren, *Troglodytes hiemalis*—formerly treated as a subspecies of *Troglodytes troglodytes,* Eurasian [Winter] Wren (AOU 2010); and

Puerto Rican Oriole, *Icterus portoricensis*—formerly treated as a subspecies of *Icterus dominicensis,* Hispaniolan [Greater Antillean] Oriole (AOU 2010).

(7) Remove four species based on revised taxonomic treatments and distributional evidence confirming that their known geographic ranges lie entirely outside the political boundaries of the United States and its territories. In each case, we reference the AOU publication supporting these changes:

Spot-billed Duck, *Anas poecilorhyncha* (AOU 2008);

Common [Black] Scoter, *Melanitta nigra* (AOU 2009);

Eurasian [Winter] Wren, *Troglodytes troglodytes* (AOU 2010); and

Hispaniolan [Greater Antillean] Oriole, *Icterus dominicensis* (AOU 2010).

(8) Revise the common (English) names of nine species to conform to the most recent nomenclatural treatment. These revisions do not change the protective status of any of these taxa, only the names by which they are known. In each case, we reference the published source for the name change:

Greater Flamingo, *Phoenicopterus ruber,* becomes American Flamingo (AOU 2008);

Greater Shearwater, *Puffinus gravis,* becomes Great Shearwater (AOU 2010);

Whip-poor-will, *Caprimulgus vociferus,* becomes Eastern Whip-poor-will (AOU 2010);

Green Violet-ear, *Colibri thalassinus,* becomes Green Violetear (AOU 2008);

Blue Rock Thrush, *Monticola solitarius,* becomes Blue Rock-Thrush (Clements 2007);

Clay-colored Robin, *Turdus grayi,* becomes Clay-colored Thrush (AOU 2008);

White-throated Robin, *Turdus assimilis,* becomes White-throated Thrush (AOU 2008);

Nelson's Sharp-tailed Sparrow, *Ammodramus nelsoni,* becomes Nelson's Sparrow (AOU 2009); and

Saltmarsh Sharp-tailed Sparrow, *Ammodramus caudacutus,* becomes Saltmarsh Sparrow (AOU 2009).

(9) Revise the scientific names of 36 species to conform to the most recent nomenclatural treatment. These revisions do not change the protective status of any of these taxa, only the names by which they are known. In each case, we reference the AOU publication documenting the name change:

*Larus philadelphia* (Bonaparte's Gull) becomes *Chroicocephalus philadelphia* (AOU 2008);

*Larus cirrocephalus* (Gray-hooded Gull) becomes *Chroicocephalus cirrocephalus* (AOU 2008);

*Larus ridibundus* (Black-headed Gull) becomes *Chroicocephalus ridibundus* (AOU 2008);

*Larus minutus* (Little Gull) becomes *Hydrocoloeus minutus* (AOU 2008);

*Larus atricilla* (Laughing Gull) becomes *Leucophaeus atricilla* (AOU 2008);

*Larus pipixcan* (Franklin's Gull) becomes *Leucophaeus pipixcan* (AOU 2008);

*Cyanocorax morio* (Brown Jay) becomes *Psilorhinus morio* (AOU 2010);

*Poecile hudsonica* (Boreal Chickadee) becomes *Poecile hudsonicus* (AOU 2009);

*Poecile cincta* (Gray-headed Chickadee) becomes *Poecile cinctus* (AOU 2009);

*Calcarius mccownii* (McCown's Longspur) becomes *Rhynchophanes mccownii* (AOU 2010);

*Vermivora pinus* (Blue-winged Warbler) becomes *Vermivora cyanoptera* (AOU 2010);

*Vermivora peregrina* (Tennessee Warbler) becomes *Oreothlypis peregrina* (AOU 2010);

*Vermivora celata* (Orange-crowned Warbler) becomes *Oreothlypis celata* (AOU 2010);

*Vermivora ruficapilla* (Nashville Warbler) becomes *Oreothlypis ruficapilla* (AOU 2010);

*Vermivora virginiae* (Virginia's Warbler) becomes *Oreothlypis virginiae* (AOU 2010);

*Vermivora crissalis* (Colima Warbler) becomes *Oreothlypis crissalis* (AOU 2010);

*Vermivora luciae* (Lucy's Warbler) becomes *Oreothlypis luciae* (AOU 2010);

*Parula superciliosa* (Crescent-chested Warbler) becomes *Oreothlypis superciliosa* (AOU 2010);

*Seiurus noveboracensis* (Northern Waterthrush) becomes *Parkesia noveboracensis* (AOU 2010);

*Seiurus motacilla* (Louisiana Waterthrush) becomes *Parkesia motacilla* (AOU 2010);

*Pipilo fuscus* (Canyon Towhee) becomes *Melozone fusca* (AOU 2010);

*Pipilo crissalis* (California Towhee) becomes *Melozone crissalis* (AOU 2010);

*Pipilo aberti* (Abert's Towhee) becomes *Melozone aberti* (AOU 2010);

*Aimophila carpalis* (Rufous-winged Sparrow) becomes *Peucaea carpalis* (AOU 2010);

*Aimophila botterii* (Botteri's Sparrow) becomes *Peucaea botterii* (AOU 2010);

*Aimophila cassinii* (Cassin's Sparrow) becomes *Peucaea cassinii* (AOU 2010);

*Aimophila aestivalis* (Bachman's Sparrow) becomes *Peucaea aestivalis* (AOU 2010);

*Aimophila quinquestriata* (Five-striped Sparrow) becomes *Amphispiza quinquestriata* (AOU 2010);

*Carduelis flammea* (Common Redpoll) becomes *Acanthis flammea* (AOU 2009);

*Carduelis hornemanni* (Hoary Redpoll) becomes *Acanthis hornemanni* (AOU 2009);

*Carduelis spinus* (Eurasian Siskin) becomes *Spinus spinus* (AOU 2009);

*Carduelis pinus* (Pine Siskin) becomes *Spinus pinus* (AOU 2009);

*Carduelis psaltria* (Lesser Goldfinch) becomes *Spinus psaltria* (AOU 2009);

*Carduelis lawrencei* (Lawrence's Goldfinch) becomes *Spinus lawrencei* (AOU 2009);

*Carduelis tristis* (American Goldfinch) becomes *Spinus tristis* (AOU 2009); and

*Carduelis sinica* (Oriental Greenfinch) becomes *Chloris sinica* (AOU 2009).

For ease of comparison, changes are summarized in the following table (numbers reference the categories treated above). Species whose names have been revised (categories 2, 3, 8, and 9) appear in both the left-hand column (old name removed) and right-hand column (new name added), as are species that have been added based on taxonomic splits (category 6) of extralimital species that have been removed (category 7).

| Removed (taxonomically) | Added (taxonomically) |
|---|---|
| Spot-billed Duck, *Anas poecilorhyncha* (7) | Eastern Spot-billed Duck, *Anas zonorhyncha* (6). |
| Common [Black] Scoter, *Melanitta nigra* (7) | Black Scoter, *Melanitta americana* (6). |
| Greater Flamingo, *Phoenicopterus ruber* (8) | American Flamingo, *Phoenicopterus ruber* (8). |
| | Parkinson's Petrel, *Procellaria parkinsoni* (4). |
| Greater Shearwater, *Puffinus gravis* (8) | Great Shearwater, *Puffinus gravis* (8). |
| Polynesian Storm-Petrel, *Nesofregata fuliginosa* (2) | Polynesian Storm-Petrel, *Nesofregetta fuliginosa* (2). |

| Removed (taxonomically) | Added (taxonomically) |
|---|---|
| Polynesian Storm-Petrel, *Nesofregetta fuiginosa* (3) | Polynesian Storm-Petrel, *Nesofregetta fuliginosa* (3). |
| | Swinhoe's Storm-Petrel, *Oceanodroma monorhis* (4). |
| | Swallow-tailed Gull, *Creagrus furcatus* (4). |
| Bonaparte's Gull, *Larus philadelphia* (9) | Bonaparte's Gull, *Chroicocephalus philadelphia* (9). |
| Gray-hooded Gull, *Larus cirrocephalus* (9) | Gray-hooded Gull, *Chroicocephalus cirrocephalus* (9). |
| Black-headed Gull, *Larus ridibundus* (9) | Black-headed Gull, *Chroicocephalus ridibundus* (9). |
| Little Gull, *Larus minutus* (9) | Little Gull, *Hydrocoloeus minutus* (9). |
| Laughing Gull, *Larus atricilla* (9) | Laughing Gull, *Leucophaeus atricilla* (9). |
| Franklin's Gull, *Larus pipixcan* (9) | Franklin's Gull, *Leucophaeus pipixcan* (9). |
| Royal Tern, *Thalleseus maximus* (2) | Royal Tern, *Thalasseus maximus* (2). |
| Sandwich Tern, *Thalleseus sandvicensis* (2) | Sandwich Tern, *Thalasseus sandvicensis* (2). |
| | Brown Hawk-Owl, *Ninox scutulata* (4). |
| Whip-poor-will, *Caprimulgus vociferus* (8) | Eastern Whip-poor-will, *Caprimulgus vociferus* (8). |
| | Mexican Whip-poor-will, *Caprimulgus arizonae* (6). |
| Green Violet-ear, *Colibri thalassinus* (8) | Green Violetear, *Colibri thalassinus* (8). |
| | White-crested Elaenia, *Elaenia albiceps* (4). |
| | Crowned Slaty Flycatcher, *Empidonomus aurantioatrocristatus* (4). |
| Black-capped Vireo, *Vireo atricapillus* (2, 3) | Black-capped Vireo, *Vireo atricapilla* (2, 3). |
| Brown Jay, *Cyanocorax morio* (9) | Brown Jay, *Psilorhinus morio* (9). |
| Boreal Chickadee, *Poecile hudsonica* (9) | Boreal Chickadee, *Poecile hudsonicus* (9). |
| Gray-headed Chickadee, *Poecile cincta* (9) | Gray-headed Chickadee, *Poecile cinctus* (9). |
| | Sinaloa Wren, *Thryothorus sinaloa* (4). |
| | Pacific Wren, *Troglodytes pacificus* (6). |
| Eurasian [Winter] Wren, *Troglodytes troglodytes* (7) | Winter Wren, *Troglodytes hiemalis* (6). |
| Wood Warbler, *Phylloscopus siilatrix* (2) | Wood Warbler, *Phylloscopus sibilatrix* (2). |
| | Pallas's Leaf-Warbler, *Phylloscopus proregulus* (4). |
| Lanceolated Warbler, *Locustella lanceoloata* (2) | Lanceolated Warbler, *Locustella lanceolata* (2). |
| | Wrentit, *Chamaea fasciata* (5). |
| | Sedge Warbler, *Acrocephalus schoenobaenus* (4). |
| | Mugimaki Flycatcher, *Ficedula mugimaki* (1). |
| | Taiga Flycatcher, *Ficedula albicilla* (1). |
| | Dark-sided Flycatcher, *Muscicapa sibirica* (1). |
| | Asian Brown Flyctcher, *Muscicapa dauurica* (1). |
| | Spotted Flycatcher, *Muscicapa striata* (1). |
| Blue Rock Thrush, *Monticola solitarius* (8) | Blue Rock-Thrush, *Monticola solitarius* (8). |
| | Rufous-tailed Robin, *Luscinia sibilans* (4). |
| Clay-colored Robin, *Turdus grayi* (8) | Clay-colored Thrush, *Turdus grayi* (8). |
| White-throated Robin, *Turdus assimilis* (8) | White-throated Thrush, *Turdus assimilis* (8). |
| McCown's Longspur, *Calcarius mccownii* (9) | McCown's Longspur, *Rhynchophanes mccownii* (9). |
| Blue-winged Warbler, *Vermivora pinus* (9) | Blue-winged Warbler, *Vermivora cyanoptera* (9). |
| Tennessee Warbler, *Vermivora peregrina* (9) | Tennessee Warbler, *Oreothlypis peregrina* (9). |
| Orange-crowned Warbler, *Vermivora celata* (9) | Orange-crowned Warbler, *Oreothlypis celata* (9). |
| Nashville Warbler, *Vermivora ruficapilla* (9) | Nashville Warbler, *Oreothlypis ruficapilla* (9). |
| Virginia's Warbler, *Vermivora virginiae* (9) | Virginia's Warbler, *Oreothlypis virginiae* (9). |
| Colima Warbler, *Vermivora crissalis* (9) | Colima Warbler, *Oreothlypis crissalis* (9). |
| Lucy's Warbler, *Vermivora luciae* (9) | Lucy's Warbler, *Oreothlypis luciae* (9). |
| Crescent-chested Warbler, *Parula superciliosa* (9) | Crescent-chested Warbler, *Oreothlypis superciliosa* (9). |
| Northern Waterthrush, *Seiurus noveboracensis* (9) | Northern Waterthrush, *Parkesia noveboracensis* (9). |
| Louisiana Waterthrush, *Seiurus motacilla* (9) | Louisiana Waterthrush, *Parkesia motacilla* (9). |
| Yellow-faced Grassquit, *Tiaris olivacea* (3) | Yellow-faced Grassquit, *Tiaris olivaceus* (3). |
| Canyon Towhee, *Pipilo fuscus* (9) | Canyon Towhee, *Melozone fusca* (9). |
| California Towhee, *Pipilo crissalis* (9) | California Towhee, *Melozone crissalis* (9). |
| Abert's Towhee, *Pipilo aberti* (9) | Abert's Towhee, *Melozone aberti* (9). |
| Rufous-winged Sparrow, *Aimophila carpalis* (9) | Rufous-winged Sparrow, *Peucaea carpalis* (9). |
| Botteri's Sparrow, *Aimophila botterii* (9) | Botteri's Sparrow, *Peucaea botterii* (9). |
| Cassin's Sparrow, *Aimophila cassinii* (9) | Cassin's Sparrow, *Peucaea cassinii* (9). |
| Bachman's Sparrow, *Aimophila aestivalis* (9) | Bachman's Sparrow, *Peucaea aestivalis* (9). |
| Five-striped Sparrow, *Aimophila quinquestriata* (9) | Five-striped Sparrow, *Amphispiza quinquestriata* (9). |
| Nelson's Sharp-tailed Sparrow, *Ammodramus nelsoni* (8) | Nelson's Sparrow, *Ammodramus nelsoni* (8). |
| Saltmarsh Sharp-tailed Sparrow, *Ammodramus caudacutus* (8) | Saltmarsh Sparrow, *Ammodramus caudacutus* (8). |
| | Yellow-browed Bunting, *Emberiza chrysophrys* (4). |
| Hispaniolan [Greater Antillean] Oriole, *Icterus dominicensis* (7) | Puerto Rican Oriole, *Icterus portoricensis* (6). |
| Common Redpoll, *Carduelis flammea* (9) | Common Redpoll, *Acanthis flammea* (9). |
| Hoary Redpoll, *Carduelis hornemanni* (9) | Hoary Redpoll, *Acanthis hornemanni* (9). |
| Eurasian Siskin, *Carduelis spinus* (9) | Eurasian Siskin, *Spinus spinus* (9). |
| Pine Siskin, *Carduelis pinus* (9) | Pine Siskin, *Spinus pinus* (9). |
| Lesser Goldfinch, *Carduelis psaltria* (9) | Lesser Goldfinch, *Spinus psaltria* (9). |
| Lawrence's Goldfinch, *Carduelis lawrencei* (9) | Lawrence's Goldfinch, *Spinus lawrencei* (9). |
| American Goldfinch, *Carduelis tristis* (9) | American Goldfinch, *Spinus tristis* (9). |
| Oriental Greenfinch, *Carduelis sinica* (9) | Oriental Greenfinch, *Chloris sinica* (9). |

**How do the changes implemented here differ from those discussed in the proposed rule?**

The scientific name of one species spelled erroneously in the proposed rule is corrected to conform to the AOU Check-list (1998) and supplements:

Black-capped Vireo, *Vireo atricapillus* becomes *Vireo atricapilla*.

**How is the list of migratory birds organized?**

The species are listed in two formats to suit the needs of different segments of the public: alphabetically in 50 CFR 10.13(c)(1) and taxonomically in 50 CFR 10.13(c)(2). In the alphabetical listing, species are listed by common (English) group names, with the scientific name of each species following the English group name. This format, similar to that used in modern telephone directories, is most useful to members of the lay public. In the taxonomic listing, species are listed in phylogenetic sequence by scientific name, with the English name following the scientific name. To help clarify species relationships, we also list the higher-level taxonomic categories of Order, Family, and Subfamily. This format follows the sequence adopted by the AOU (1998, 2010) and is most useful to ornithologists and other scientists.

**What species are not protected by the Migratory Bird Treaty Act?**

The MBTA does not apply to:

(1) Nonnative species introduced into the United States or its territories by means of intentional or unintentional human assistance that belong to families or groups covered by the Canadian, Mexican, or Russian Conventions, in accordance with the MBTRA. See 70 FR 12710 (March 15, 2005) for a partial list of nonnative, human-introduced bird species in this category. Note, though, that native species that are introduced into parts of the United States where they are not native are still protected under the MBTA regardless of where they occur in the United States or its territories.

(2) Nonnative, human-introduced species that belong to families or groups not covered by the Canadian, Mexican, or Russian Conventions, including Tinamidae (tinamous), Cracidae (chachalacas), Megapodiidae (megapodes), Phasianidae (grouse, ptarmigan, and turkeys), Turnicidae (buttonquails), Odontophoridae (New World quail), Pteroclididae (sandgrouse), Psittacidae (parrots), Dicruridae (drongos), Rhamphastidae (toucans), Musophagidae (turacos), Bucerotidae (hornbills), Bucorvidae (ground-hornbills), Pycnonotidae (bulbuls), Pittidae (pittas), Irenidae (fairy-bluebirds), Timaliidae (babblers), Zosteropidae (white-eyes), Sturnidae (starlings; except as listed in the Japanese Convention), Passeridae (Old World sparrows), Ploceidae (weavers), Estrildidae (estrildid finches), and numerous other families not currently represented in the United States or its territories.

(3) Native species that belong to families or groups represented in the United States, but which are not expressly mentioned by the Canadian, Mexican, or Russian Conventions, including the Megapodiidae (megapodes), Phasianidae (grouse, ptarmigan, and turkeys), Odontophoridae (New World quail), Burhinidae (thick-knees), Glareolidae (pratincoles), Psittacidae (parrots), Todidae (todies), Meliphagidae (honeyeaters), Monarchidae (monarch flycatchers [elepaios]), Zosteropidae (white-eyes), and Coerebidae (bananaquit). It should be noted that this rule supersedes the 70 FR 12710 notice to the extent that they are inconsistent. Specifically, the 1996 amendment to the Canadian Convention included the family Muscicapidae (Old World flycatchers). Thus, all members of the Muscicapidae family are now included on this list. In addition, the Wrentit is now considered a member of the Sylviidae family rather than the Timaliidae family and is now included on this list.

Partial lists of the species included in categories 2 and 3 are available at *http://www.fws.gov/migratorybirds/RegulationsPolicies/mbta/MBTAProtectedNonprotected.html*.

**Responses to Public Comments**

On April 26, 2011, we published in the **Federal Register** (76 FR 23428) a proposed rule to revise the list of migratory birds at 50 CFR 10.13. We solicited public comments on the proposed rule for 90 days, ending on July 25, 2011.

We received 7 comments in response to the proposed rule; 5 were from agencies, and 2 were from private individuals. The following text discusses the substantive comments we received and provides our responses to them.

*Comment:* One individual indicated that Brown Hawk-Owl, and the 10 other species we proposed to add based on new distributional records (Category 4), should not be added because they are either extremely rare vagrants or were moved by humans. The commenter further pointed out that the MBTA loses biological and ecological credibility when species are added that do not naturally occur in the United States or its territories, and pointed to the Eurasian Kestrel as one example.

*Response:* In 2004, the Migratory Bird Treaty Reform Act (MBTRA; Pub. L. 108–447) amended the MBTA. While the primary purpose of the MBTRA was to eliminate protection for introduced species, it also defined native species as those ''occurring in the United States or its territories as a result of natural biological or ecological processes.'' Vagrancy is a natural biological process, so these species are protected under the MBTA.

There is credible evidence to support our contention that these species have occurred in the United States as natural vagrants unhindered by human intervention. The AOU and other bird record committees take human intervention into account whenever they evaluate such records. Several of these species, including the Brown Hawk-Owl, have occurred in some of the remotest parts of Alaska, and are most unlikely to have been moved there by humans. Furthermore, multiple records of Eurasian Kestrel have been accepted from Western Alaska, and at scattered locations across North America, by the AOU and other competent scientific authorities.

*Comment:* The Arkansas Game and Fish Commission urged the Service to carefully consider the implications to State regulations when making recommendations, and ensure that they do not occur so frequently as to become burdensome. Specifically, they point out that the split of the order Accipitriformes from the Falconiformes will necessitate a change in State falconry regulations.

*Response:* The Service appreciates the State's concern regarding changes to Federal regulations that affect States, and we make a concerted effort to work closely with the States through the Flyway Councils. To comply with the intent of the migratory bird treaties and the MBTA, we are obligated to update the list at intervals. However, the List of Migratory Birds has been updated only twice since 1985, which is not frequently enough to stay current with changes in bird taxonomy. Consequently, we intend to update this list on a 5-year cycle to coincide with updates to the Birds of Conservation Concern, thus balancing the frequency of updates with the frequency of changes in bird taxonomy. In this update, taxonomic changes at the Order level did not change which species are protected under the MBTA, as the species within those families were previously protected. Furthermore, this is the first change we have made to the

Falconiformes since the families within that Order were first protected in 1972.

*Comment:* The Indiana Division of Fish and Wildlife (IDFW) was pleased that the Service intends to continue to treat cackling geese as Canada geese, pointing out that hunting management of white-cheeked geese could become more difficult if they were split. The IDFW also pointed out that the Mississippi Flyway Council is trying to simplify hunting regulations for Canada geese, and splitting them into two species for management purposes could cause progress toward simplification to stall.

*Response:* The Service recognizes the management concerns referred to by the commenter. While we appreciate the complexities of white-cheeked goose management, our decision to continue to include the Cackling Goose within the listing for Canada Goose is based on lingering uncertainty regarding their taxonomic relationship. Work is currently being conducted in Alaska and northern Canada to resolve that uncertainty. We will consider new information when it is available, at which time we may reconsider our decision. In any case, regardless of name, goose subspecies identified as Cackling Goose by the AOU are currently protected under the MBTA as Canada Goose.

**Required Determinations**

*Regulatory Planning and Review (Executive Order 12866)*

Executive Order (EO) 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all significant rules. OIRA has determined that this rule is not significant.

EO 13563 reaffirms the principles of EO 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. EO 13563 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.

EO 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

*Regulatory Flexibility Act (5 U.S.C. 601 et seq.)*

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq., as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 (Pub. L. 104–121)), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule does not have a significant economic impact on a substantial number of small entities.

SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide the statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities. We have examined this rule's potential effects on small entities as required by the Regulatory Flexibility Act, and have determined that this action will not have a significant economic impact on a substantial number of small entities, because we are simply updating the list of migratory bird species protected under the Conventions. Consequently, we certify that because this rule does not have a significant economic effect on a substantial number of small entities, a regulatory flexibility analysis is not required.

This rule is not a major rule under SBREFA (5 U.S.C. 804(2)). It does not have a significant impact on a substantial number of small entities.

a. This rule does not have an annual effect on the economy of $100 million or more.

b. This rule does not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

c. This rule does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

*Unfunded Mandates Reform Act*

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.), we have determined the following:

a. This rule does not ''significantly or uniquely'' affect small governments. A small government agency plan is not required. Actions under the regulation do not affect small government activities in any significant way.

b. This rule does not produce a Federal mandate of $100 million or greater in any year; i.e., it is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

*Takings*

In accordance with Executive Order 12630, the rule does not have significant takings implications. This rule does not contain a provision for taking of private property. Therefore, a takings implication assessment is not required.

*Federalism*

This rule does not have sufficient Federalism effects to warrant preparation of a Federalism summary impact statement under Executive Order 13132. It does not interfere with the States' ability to manage themselves or their funds. No significant economic impacts are expected to result from the updating of the list of migratory bird species.

*Civil Justice Reform*

In accordance with Executive Order 12988, the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

*Paperwork Reduction Act*

We examined this rule under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). There are no new information collection requirements associated with this rule. We do not require any new permits, reports, or recordkeeping in this rule.

*National Environmental Policy Act (NEPA)*

Given that the revision of 50 CFR 10.13 is strictly administrative in nature and will have no or minor environmental effects, it is categorically excluded from further NEPA requirements (43 CFR 46.210(i)).

*Endangered Species Act (ESA)*

Seventy-four of the species on the List of Migratory Birds are also designated as endangered or threatened in all or some portion of their U.S. range under provisions of the Endangered Species Act of 1973 (16 U.S.C. 1531–44; 50 CFR 17.11). No legal complications arise from the dual listing as the two lists are developed under separate authorities and for different purposes. Because the rule is strictly administrative in nature, it has no effect on threatened or endangered species. It does not require ESA consultation.

*Government-to-Government Relationship With Tribes*

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American tribal Governments'' (59 FR 22951), Executive Order 13175, and 512 DM 2, we have evaluated potential effects on federally recognized Indian tribes and have determined that there are no potential effects. The revisions to existing regulations in this rule are purely administrative in nature and do not interfere with the tribes' ability to manage themselves or their funds or to regulate migratory bird activities on tribal lands.

*Energy Supply, Distribution, or Use (Executive Order 13211)*

On May 18, 2001, the President issued Executive Order 13211 addressing regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. Because this rule only affects the listing of protected species in the United States, it is not a significant regulatory action under Executive Order 12866, and does not significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

**References Cited**

A complete list of all references cited is available upon request (see **FOR FURTHER INFORMATION CONTACT** above).

**List of Subjects**

*50 CFR Part 10*

Exports, Fish, Imports, Law enforcement, Plants, Transportation, Wildlife.

*50 CFR Part 21*

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

**Regulation Promulgation**

For the reasons discussed in the preamble, we amend title 50, chapter I, subchapter B, parts 10 and 21 of the Code of Federal Regulations, as follows:

## PART 10—[AMENDED]

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

**Authority:** 18 U.S.C. 42; 16 U.S.C. 703–712; 16 U.S.C. 668a–d; 19 U.S.C. 1202; 16 U.S.C. 1531–1543; 16 U.S.C. 1361–1384, 1401–1407; 16 U.S.C. 742a–742j–l; 16 U.S.C. 3371–3378.

■ 2. Revise § 10.13 to read as follows:

**§ 10.13 List of Migratory Birds.**

(a) *Legal authority for this list.* The legal authorities for this list are the Migratory Bird Treaty Act (MBTA; 16 U.S.C. 703–712), the Fish and Wildlife Improvement Act of 1978 (16 U.S.C. 742l), and the Fish and Wildlife Act of 1956 (16 U.S.C. 742a–742j). The MBTA implements Conventions between the United States and four neighboring countries for the protection of migratory birds, as follows:

(1) *Canada:* Convention between the United States and Great Britain [on behalf of Canada] for the Protection of Migratory Birds, August 16, 1916, 39 Stat. 1702 (T.S. No. 628), as amended;

(2) *Mexico:* Convention between the United States and Mexico for the Protection of Migratory Birds and Game Mammals, February 7, 1936, 50 Stat. 1311 (T.S. No. 912), as amended;

(3) *Japan:* Convention between the Government of the United States of America and the Government of Japan for the Protection of Migratory Birds and Birds in Danger of Extinction, and Their Environment, March 4, 1972, 25 U.S.T. 3329 (T.I.A.S. No. 7990); and

(4) *Russia:* Convention between the United States of America and the Union of Soviet Socialist Republics Concerning the Conservation of Migratory Birds and Their Environment, November 19, 1976, 20 U.S.T. 4647 (T.I.A.S. No. 9073).

(b) *Purpose of this list.* The purpose is to inform the public of the species protected by regulations that enforce the terms of the MBTA. These regulations, found in parts 10, 20, and 21 of this chapter, cover most aspects of the taking, possession, transportation, sale, purchase, barter, exportation, and importation of migratory birds.

(c) *What species are protected as migratory birds?* Species protected as migratory birds are listed in two formats to suit the varying needs of the user: Alphabetically in paragraph (c)(1) of this section and taxonomically in paragraph (c)(2) of this section. Taxonomy and nomenclature generally follow the 7th edition of the American Ornithologists' Union's *Check-list of North American birds* (1998, as amended through 2010). For species not treated by the AOU *Check-list,* we generally follow *The Clements Checklist of Birds of the World* (Clements 2007).

(1) *Alphabetical listing.* Species are listed alphabetically by common (English) group names, with the scientific name of each species following the common name.

ACCENTOR, Siberian, *Prunella montanella*
AKEKEE, *Loxops caeruleirostris*
AKEPA, *Loxops coccineus*
AKIALOA, Greater, *Hemignathus ellisianus*
AKIAPOLAAU, *Hemignathus munroi*
AKIKIKI, *Oreomystis bairdi*
AKOHEKOHE, *Palmeria dolei*
ALAUAHIO, Maui, *Paroreomyza montana*
Oahu, *Paroreomyza maculata*
ALBATROSS, Black-browed, *Thalassarche melanophris*
Black-footed, *Phoebastria nigripes*
Laysan, *Phoebastria immutabilis*
Light-mantled, *Phoebetria palpebrata*
Short-tailed, *Phoebastria albatrus*
Shy, *Thalassarche cauta*
Wandering, *Diomedea exulans*
Yellow-nosed, *Thalassarche chlororhynchos*
AMAKIHI, Hawaii, *Hemignathus virens*
Kauai, *Hemignathus kauaiensis*
Oahu, *Hemignathus flavus*
ANHINGA, *Anhinga anhinga*
ANI, Groove-billed, *Crotophaga sulcirostris*
Smooth-billed, *Crotophaga ani*
ANIANIAU, *Magumma parva*
APAPANE, *Himatione sanguinea*
AUKLET, Cassin's, *Ptychoramphus aleuticus*
Crested, *Aethia cristatella*
Least, *Aethia pusilla*
Parakeet, *Aethia psittacula*
Rhinoceros, *Cerorhinca monocerata*
Whiskered, *Aethia pygmaea*
AVOCET, American, *Recurvirostra americana*
BEAN-GOOSE, Taiga, *Anser fabalis*
Tundra, *Anser serrirostris*
BEARDLESS–TYRANNULET, Northern, *Camptostoma imberbe*
BECARD, Rose-throated, *Pachyramphus aglaiae*
BITTERN, American, *Botaurus lentiginosus*
Black, *Ixobrychus flavicollis*
Least, *Ixobrychus exilis*
Schrenck's, *Ixobrychus eurhythmus*
Yellow, *Ixobrychus sinensis*
BLACK–HAWK, Common, *Buteogallus anthracinus*
BLACKBIRD, Brewer's, *Euphagus cyanocephalus*
Red-winged, *Agelaius phoeniceus*
Rusty, *Euphagus carolinus*
Tawny-shouldered, *Agelaius humeralis*
Tricolored, *Agelaius tricolor*
Yellow-headed, *Xanthocephalus xanthocephalus*
Yellow-shouldered, *Agelaius xanthomus*
BLUEBIRD, Eastern, *Sialia sialis*
Mountain, *Sialia currucoides*
Western, *Sialia mexicana*
BLUETAIL, Red-flanked, *Tarsiger cyanurus*
BLUETHROAT, *Luscinia svecica*
BOBOLINK, *Dolichonyx oryzivorus*

BOOBY, Blue-footed, *Sula nebouxii*
Brown, *Sula leucogaster*
Masked, *Sula dactylatra*
Red-footed, *Sula sula*
BRAMBLING, *Fringilla montifringilla*
BRANT, *Branta bernicla*
BUFFLEHEAD, *Bucephala albeola*
BULLFINCH, Eurasian, *Pyrrhula pyrrhula*
Puerto Rican, *Loxigilla portoricensis*
BUNTING, Blue, *Cyanocompsa parellina*
Gray, *Emberiza variabilis*
Indigo, *Passerina cyanea*
Little, *Emberiza pusilla*
Lark, *Calamospiza melanocorys*
Lazuli, *Passerina amoena*
McKay's, *Plectrophenax hyperboreus*
Painted, *Passerina ciris*
Pallas's, *Emberiza pallasi*
Pine, *Emberiza leucocephalos*
Reed, *Emberiza schoeniclus*
Rustic, *Emberiza rustica*
Snow, *Plectrophenax nivalis*
Varied, *Passerina versicolor*
Yellow-breasted, *Emberiza aureola*
Yellow-browed, *Emberiza chrysophrys*
Yellow-throated, *Emberiza elegans*
BUSHTIT, *Psaltriparus minimus*
CANVASBACK, *Aythya valisineria*
CARACARA, Crested, *Caracara cheriway*
CARDINAL, Northern, *Cardinalis cardinalis*
CARIB, Green-throated, *Eulampis holosericeus*
Purple-throated, *Eulampis jugularis*
CATBIRD, Black, *Melanoptila glabrirostris*
Gray, *Dumetella carolinensis*
CHAFFINCH, Common, *Fringilla coelebs*
CHAT, Yellow-breasted, *Icteria virens*
CHICKADEE, Black-capped, *Poecile atricapillus*
Boreal, *Poecile hudsonicus*
Carolina, *Poecile carolinensis*
Chestnut-backed, *Poecile rufescens*
Gray-headed, *Poecile cinctus*
Mexican, *Poecile sclateri*
Mountain, *Poecile gambeli*
CHUCK–WILL'S–WIDOW, *Caprimulgus carolinensis*
CONDOR, California, *Gymnogyps californianus*
COOT, American, *Fulica americana*
Caribbean, *Fulica caribaea*
Eurasian, *Fulica atra*
Hawaiian, *Fulica alai*
CORMORANT, Brandt's, *Phalacrocorax penicillatus*
Double-crested, *Phalacrocorax auritus*
Great, *Phalacrocorax carbo*
Little Pied, *Phalacrocorax melanoleucos*
Neotropic, *Phalacrocorax brasilianus*
Pelagic, *Phalacrocorax pelagicus*
Red-faced, *Phalacrocorax urile*
COWBIRD, Bronzed, *Molothrus aeneus*
Brown-headed, *Molothrus ater*
Shiny, *Molothrus bonariensis*
CRAKE, Corn, *Crex crex*
Paint-billed, *Neocrex erythrops*
Spotless, *Porzana tabuensis*
Yellow-breasted, *Porzana flaviventer*
CRANE, Common, *Grus grus*
Sandhill, *Grus canadensis*
Whooping, *Grus americana*
CREEPER, Brown, *Certhia americana*
Hawaii, *Oreomystis mana*
CROSSBILL, Red, *Loxia curvirostra*
White-winged, *Loxia leucoptera*
CROW, American, *Corvus brachyrhynchos*
Fish, *Corvus ossifragus*
Hawaiian, *Corvus hawaiiensis*
Mariana, *Corvus kubaryi*
Northwestern, *Corvus caurinus*
Tamaulipas, *Corvus imparatus*
White-necked, *Corvus leucognaphalus*
CUCKOO, Black-billed, *Coccyzus erythropthalmus*
Common, *Cuculus canorus*
Mangrove, *Coccyzus minor*
Oriental, *Cuculus optatus*
Yellow-billed, *Coccyzus americanus*
CURLEW, Bristle-thighed, *Numenius tahitiensis*
Eskimo, *Numenius borealis*
Eurasian, *Numenius arquata*
Far Eastern, *Numenius madagascariensis*
Little, *Numenius minutus*
Long-billed, *Numenius americanus*
DICKCISSEL, *Spiza americana*
DIPPER, American, *Cinclus mexicanus*
DOTTEREL, Eurasian, *Charadrius morinellus*
DOVE, Inca, *Columbina inca*
Mourning, *Zenaida macroura*
White-tipped, *Leptotila verreauxi*
White-winged, *Zenaida asiatica*
Zenaida, *Zenaida aurita*
DOVEKIE, *Alle alle*
DOWITCHER, Long-billed, *Limnodromus scolopaceus*
Short-billed, *Limnodromus griseus*
DUCK, American Black, *Anas rubripes*
Eastern Spot-billed, *Anas zonorhyncha*
Falcated, *Anas falcata*
Harlequin, *Histrionicus histrionicus*
Hawaiian, *Anas wyvilliana*
Laysan, *Anas laysanensis*
Long-tailed, *Clangula hyemalis*
Masked, *Nomonyx dominicus*
Mottled, *Anas fulvigula*
Muscovy, *Cairina moschata*
Pacific Black, *Anas superciliosa*
Ring-necked, *Aythya collaris*
Ruddy, *Oxyura jamaicensis*
Tufted, *Aythya fuligula*
Wood, *Aix sponsa*
DUNLIN, *Calidris alpina*
EAGLE, Bald, *Haliaeetus leucocephalus*
Golden, *Aquila chrysaetos*
White-tailed, *Haliaeetus albicilla*
EGRET, Cattle, *Bubulcus ibis*
Chinese, *Egretta eulophotes*
Great, *Ardea alba*
Intermediate, *Mesophoyx intermedia*
Little, *Egretta garzetta*
Reddish, *Egretta rufescens*
Snowy, *Egretta thula*
EIDER, Common, *Somateria mollissima*
King, *Somateria spectabilis*
Spectacled, *Somateria fischeri*
Steller's, *Polysticta stelleri*
ELAENIA, Caribbean, *Elaenia martinica*
Greenish, *Myiopagis viridicata*
White-crested, *Elaenia albiceps*
EMERALD, Puerto Rican, *Chlorostilbon maugaeus*
EUPHONIA, Antillean, *Euphonia musica*
FALCON, Aplomado, *Falco femoralis*
Peregrine, *Falco peregrinus*
Prairie, *Falco mexicanus*
Red-footed, *Flaco vespertinus*
FIELDFARE, *Turdus pilaris*
FINCH, Cassin's, *Carpodacus cassinii*
House, *Carpodacus mexicanus*
Laysan, *Telespiza cantans*
Nihoa, *Telespiza ultima*
Purple, *Carpodacus purpureus*
FLAMINGO, American, *Phoenicopterus ruber*
FLICKER, Gilded, *Colaptes chrysoides*
Northern, *Colaptes auratus*
FLYCATCHER, Acadian, *Empidonax virescens*
Alder, *Empidonax alnorum*
Ash-throated, *Myiarchus cinerascens*
Asian Brown, *Muscicapa dauurica*
Brown-crested, *Myiarchus tyrannulus*
Buff-breasted, *Empidonax fulvifrons*
Cordilleran, *Empidonax occidentalis*
Crowned Slaty, *Empidonomus aurantioatrocristatus*
Dark-sided, *Muscicapa sibirica*
Dusky, *Empidonax oberholseri*
Dusky-capped, *Myiarchus tuberculifer*
Fork-tailed, *Tyrannus savana*
Gray, *Empidonax wrightii*
Gray-streaked, *Muscicapa griseisticta*
Great Crested, *Myiarchus crinitus*
Hammond's, *Empidonax hammondii*
La Sagra's, *Myiarchus sagrae*
Least, *Empidonax minimus*
Mugimaki, *Ficedula mugimaki*
Narcissus, *Ficedula narcissina*
Nutting's, *Myiarchus nuttingi*
Olive-sided, *Contopus cooperi*
Pacific-slope, *Empidonax difficilis*
Piratic, *Legatus leucophalus*
Puerto Rican, *Myiarchus antillarum*
Scissor-tailed, *Tyrannus forficatus*
Social, *Myiozetetes similis*
Spotted, *Muscicapa striata*
Sulphur-bellied, *Myiodynastes luteiventris*
Taiga, *Ficedula albicilla*
Tufted, *Mitrephanes phaeocercus*
Variegated, *Empidonomus varius*
Vermilion, *Pyrocephalus rubinus*

Willow, *Empidonax traillii*
Yellow-bellied, *Empidonax flaviventris*
FOREST-FALCON, Collared, *Micrastur semitorquatus*
FRIGATEBIRD, Great, *Fregata minor*
Lesser, *Fregata ariel*
Magnificent, *Fregata magnificens*
FROG–HAWK, Gray, *Accipiter soloensis*
FRUIT–DOVE, Crimson-crowned, *Ptilinopus porphyraceus*
Many-colored, *Ptilinopus perousii*
Mariana, *Ptilinopus roseicapilla*
FULMAR, Northern, *Fulmarus glacialis*
GADWALL, *Anas strepera*
GALLINULE, Azure, *Porphyrio flavirostris*
Purple, *Porphyrio martinica*
GANNET, Northern, *Morus bassanus*
GARGANEY, *Anas querquedula*
GNATCATCHER, Black-capped, *Polioptila nigriceps*
Black-tailed, *Polioptila melanura*
Blue-gray, *Polioptila caerulea*
California, *Polioptila californica*
GODWIT, Bar-tailed, *Limosa lapponica*
Black-tailed, *Limosa limosa*
Hudsonian, *Limosa haemastica*
Marbled, *Limosa fedoa*
GOLDEN-PLOVER, American, *Pluvialis dominica*
European, *Pluvialis apricaria*
Pacific, *Pluvialis fulva*
GOLDENEYE, Barrow's, *Bucephala islandica*
Common, *Bucephala clangula*
GOLDFINCH, American, *Spinus tristis*
Lawrence's, *Spinus lawrencei*
Lesser, *Spinus psaltria*
GOOSE, Barnacle, *Branta leucopsis*
Canada, *Branta canadensis* (including Cackling Goose, *Branta hutchinsii*)
Emperor, *Chen canagica*
Greater White-fronted, *Anser albifrons*
Hawaiian, *Branta sandvicensis*
Lesser White-fronted, *Anser erythropus*
Ross's, *Chen rossii*
Snow, *Chen caerulescens*
GOSHAWK, Northern, *Accipiter gentilis*
GRACKLE, Boat-tailed, *Quiscalus major*
Common, *Quiscalus quiscula*
Great-tailed, *Quiscalus mexicanus*
Greater Antillean, *Quiscalus niger*
GRASSHOPPER-WARBLER, Middendorff's, *Locustella ochotensis*
GRASSQUIT, Black-faced, *Tiaris bicolor*
Yellow-faced, *Tiaris olivaceus*
GREBE, Clark's, *Aechmophorus clarkii*
Eared, *Podiceps nigricollis*
Horned, *Podiceps auritus*
Least, *Tachybaptus dominicus*
Pied-billed, *Podilymbus podiceps*
Red-necked, *Podiceps grisegena*
Western, *Aechmophorus occidentalis*
GREENFINCH, Oriental, *Chloris sinica*
GREENSHANK, Common, *Tringa nebularia*
Nordmann's, *Tringa guttifer*
GROSBEAK, Black-headed, *Pheucticus melanocephalus*
Blue, *Passerina caerulea*
Crimson-collared, *Rhodothraupis celaeno*
Evening, *Coccothraustes vespertinus*
Pine, *Pinicola enucleator*
Rose-breasted, *Pheucticus ludovicianus*
Yellow, *Pheucticus chrysopeplus*
GROUND-DOVE, Common, *Columbina passerina*
Friendly, *Gallicolumba stairi*
Ruddy, *Columbina talpacoti*
White-throated, *Gallicolumba xanthonura*
GUILLEMOT, Black, *Cepphus grylle*
Pigeon, *Cepphus columba*
GULL, Belcher's, *Larus belcheri*
Black-headed, *Chroicocephalus ridibundus*
Black-tailed, *Larus crassirostris*
Bonaparte's, *Chroicocephalus philadelphia*
California, *Larus californicus*
Franklin's, *Leucophaeus pipixcan*
Glaucous, *Larus hyperboreus*
Glaucous-winged, *Larus glaucescens*
Gray-hooded, *Chroicocephalus cirrocephalus*
Great Black-backed, *Larus marinus*
Heermann's, *Larus heermanni*
Herring, *Larus argentatus*
Iceland, *Larus glaucoides*
Ivory, *Pagophila eburnea*
Kelp, *Larus dominicanus*
Laughing, *Leucophaeus atricilla*
Lesser Black-backed, *Larus fuscus*
Little, *Hydrocoloeus minutus*
Mew, *Larus canus*
Ring-billed, *Larus delawarensis*
Ross's, *Rhodostethia rosea*
Sabine's, *Xema sabini*
Slaty-backed, *Larus schistisagus*
Swallow-tailed, *Creagrus furcatus*
Thayer's, *Larus thayeri*
Western, *Larus occidentalis*
Yellow-footed, *Larus livens*
Yellow-legged, *Larus michahellis*
GYRFALCON, *Falco rusticolus*
HARRIER, Northern, *Circus cyaneus*
HAWFINCH, *Coccothraustes coccothraustes*
HAWK, Broad-winged, *Buteo platypterus*
Cooper's, *Accipiter cooperii*
Crane, *Geranospiza caerulescens*
Ferruginous, *Buteo regalis*
Gray, *Buteo nitidus*
Harris's, *Parabuteo unicinctus*
Hawaiian, *Buteo solitarius*
Red-shouldered, *Buteo lineatus*
Red-tailed, *Buteo jamaicensis*
Roadside, *Buteo magnirostris*
Rough-legged, *Buteo lagopus*
Sharp-shinned, *Accipiter striatus*
Short-tailed, *Buteo brachyurus*
Swainson's, *Buteo swainsoni*
White-tailed, *Buteo albicaudatus*
Zone-tailed, *Buteo albonotatus*
HAWK-CUCKOO, Hodgson's, *Cuculus fugax*
HAWK-OWL, Brown, *Ninox scutulata*
HERON, Gray, *Ardea cinerea*
Great Blue, *Ardea herodias*
Green, *Butorides virescens*
Little Blue, *Egretta caerulea*
Tricolored, *Egretta tricolor*
HOBBY, Eurasian, *Falco subbuteo*
HOOPOE, Eurasian, *Upupa epops*
HOUSE-MARTIN, Common, *Delichon urbicum*
HUMMINGBIRD, Allen's, *Selasphorus sasin*
Anna's, *Calypte anna*
Antillean Crested, *Orthorhyncus cristatus*
Berylline, *Amazilia beryllina*
Black-chinned, *Archilochus alexandri*
Blue-throated, *Lampornis clemenciae*
Broad-billed, *Cynanthus latirostris*
Broad-tailed, *Selasphorus platycercus*
Buff-bellied, *Amazilia yucatanensis*
Bumblebee, *Atthis heloisa*
Calliope, *Stellula calliope*
Cinnamon, *Amazilia rutila*
Costa's, *Calypte costae*
Lucifer, *Calothorax lucifer*
Magnificent, *Eugenes fulgens*
Ruby-throated, *Archilochus colubris*
Rufous, *Selasphorus rufus*
Violet-crowned, *Amazilia violiceps*
White-eared, *Hylocharis leucotis*
Xantus's, *Hylocharis xantusii*
IBIS, Glossy, *Plegadis falcinellus*
Scarlet, *Eudocimus ruber*
White, *Eudocimus albus*
White-faced, *Plegadis chihi*
IIWI, *Vestiaria coccinea*
IMPERIAL-PIGEON, Pacific, *Ducula pacifica*
JABIRU, *Jabiru mycteria*
JACANA, Northern, *Jacana spinosa*
JAEGER, Long-tailed, *Stercorarius longicaudus*
Parasitic, *Stercorarius parasiticus*
Pomarine, *Stercorarius pomarinus*
JAY, Blue, *Cyanocitta cristata*
Brown, *Psilorhinus morio*
Gray, *Perisoreus canadensis*
Green, *Cyanocorax yncas*
Mexican, *Aphelocoma ultramarina*
Pinyon, *Gymnorhinus cyanocephalus*
Steller's, *Cyanocitta stelleri*
JUNCO, Dark-eyed, *Junco hyemalis*
Yellow-eyed, *Junco phaeonotus*
KAKAWAHIE, *Paroreomyza flammea*
KAMAO, *Myadestes myadestinus*
KESTREL, American, *Falco sparverius*
Eurasian, *Falco tinnunculus*
KILLDEER, *Charadrius vociferus*
KINGBIRD, Cassin's, *Tyrannus vociferans*
Couch's, *Tyrannus couchii*
Eastern, *Tyrannus tyrannus*
Gray, *Tyrannus dominicensis*
Loggerhead, *Tyrannus caudifasciatus*

Thick-billed, *Tyrannus crassirostris*
Tropical, *Tyrannus melancholicus*
Western, *Tyrannus verticalis*
KINGFISHER, Belted, *Megaceryle alcyon*
Collared, *Todirhamphus chloris*
Green, *Chloroceryle americana*
Micronesian, *Todirhamphus cinnamominus*
Ringed, *Megaceryle torquata*
KINGLET, Golden-crowned, *Regulus satrapa*
Ruby-crowned, *Regulus calendula*
KISKADEE, Great, *Pitangus sulphuratus*
KITE, Black, *Milvus migrans*
Hook-billed, *Chondrohierax uncinatus*
Mississippi, *Ictinia mississippiensis*
Snail, *Rostrhamus sociabilis*
Swallow-tailed, *Elanoides forficatus*
White-tailed, *Elanus leucurus*
KITTIWAKE, Black-legged, *Rissa tridactyla*
Red-legged, *Rissa brevirostris*
KNOT, Great, *Calidris tenuirostris*
Red, *Calidris canutus*
LAPWING, Northern, *Vanellus vanellus*
LARK, Horned, *Eremophila alpestris*
Sky, *Alauda arvensis*
LEAF-WARBLER, Pallas's, *Phylloscopus proregulus*
LIMPKIN, *Aramus guarauna*
LIZARD-CUCKOO, Puerto Rican, *Coccyzus vieilloti*
LONGSPUR, Chestnut-collared, *Calcarius ornatus*
Lapland, *Calcarius lapponicus*
McCown's, *Rhynchophanes mccownii*
Smith's, *Calcarius pictus*
LOON, Arctic, *Gavia arctica*
Common, *Gavia immer*
Pacific, *Gavia pacifica*
Red-throated, *Gavia stellata*
Yellow-billed, *Gavia adamsii*
MAGPIE, Black-billed, *Pica hudsonia*
Yellow-billed, *Pica nuttalli*
MALLARD, *Anas platyrhynchos*
MANGO, Antillean, *Anthracothorax dominicus*
Green, *Anthracothorax viridis*
Green-breasted, *Anthracothorax prevostii*
MARTIN, Brown-chested, *Progne tapera*
Caribbean, *Progne dominicensis*
Cuban, *Progne cryptoleuca*
Gray-breasted, *Progne chalybea*
Purple, *Progne subis*
Southern, *Progne elegans*
MEADOWLARK, Eastern, *Sturnella magna*
Western, *Sturnella neglecta*
MERGANSER, Common, *Mergus merganser*
Hooded, *Lophodytes cucullatus*
Red-breasted, *Mergus serrator*
MERLIN, *Falco columbarius*
MILLERBIRD, *Acrocephalus familiaris*
MOCKINGBIRD, Bahama, *Mimus gundlachii*
Blue, *Melanotis caerulescens*
Northern, *Mimus polyglottos*
MOORHEN, Common, *Gallinula chloropus*
MURRE, Common, *Uria aalge*
Thick-billed, *Uria lomvia*
MURRELET, Ancient, *Synthliboramphus antiquus*
Craveri's, *Synthliboramphus craveri*
Kittlitz's, *Brachyramphus brevirostris*
Long-billed, *Brachyramphus perdix*
Marbled, *Brachyramphus marmoratus*
Xantus's, *Synthliboramphus hypoleucus*
NEEDLETAIL, White-throated, *Hirundapus caudacutus*
NIGHT-HERON, Black-crowned, *Nycticorax nycticorax*
Japanese, *Gorsachius goisagi*
Malayan, *Gorsachius melanolophus*
Yellow-crowned, *Nyctanassa violacea*
NIGHTHAWK, Antillean, *Chordeiles gundlachii*
Common, *Chordeiles minor*
Lesser, *Chordeiles acutipennis*
NIGHTINGALE-THRUSH, Black-headed, *Catharus mexicanus*
Orange-billed, *Catharus aurantiirostris*
NIGHTJAR, Buff-collared, *Caprimulgus ridgwayi*
Gray, *Caprimulgus indicus*
Puerto Rican, *Caprimulgus noctitherus*
NODDY, Black, *Anous minutus*
Blue-gray, *Procelsterna cerulea*
Brown, *Anous stolidus*
NUKUPUU, *Hemignathus lucidus*
NUTCRACKER, Clark's, *Nucifraga columbiana*
NUTHATCH, Brown-headed, *Sitta pusilla*
Pygmy, *Sitta pygmaea*
Red-breasted, *Sitta canadensis*
White-breasted, *Sitta carolinensis*
OLOMAO, *Myadestes lanaiensis*
OMAO, *Myadestes obscurus*
ORIOLE, Altamira, *Icterus gularis*
Audubon's, *Icterus graduacauda*
Baltimore, *Icterus galbula*
Black-vented, *Icterus wagleri*
Bullock's, *Icterus bullockii*
Hooded, *Icterus cucullatus*
Orchard, *Icterus spurius*
Puerto Rican, *Icterus portoricensis*
Scott's, *Icterus parisorum*
Streak-backed, *Icterus pustulatus*
OSPREY, *Pandion haliaetus*
OU, *Psittirostra psittacea*
OVENBIRD, *Seiurus aurocapilla*
OWL, Barn, *Tyto alba*
Barred, *Strix varia*
Boreal, *Aegolius funereus*
Burrowing, *Athene cunicularia*
Elf, *Micrathene whitneyi*
Flammulated, *Otus flammeolus*
Great Gray, *Strix nebulosa*
Great Horned, *Bubo virginianus*
Long-eared, *Asio otus*
Mottled, *Ciccaba virgata*
Northern Hawk, *Surnia ulula*
Northern Saw-whet, *Aegolius acadicus*
Short-eared, *Asio flammeus*
Snowy, *Bubo scandiacus*
Spotted, *Strix occidentalis*
Stygian, *Asio stygius*
OYSTERCATCHER, American, *Haematopus palliatus*
Black, *Haematopus bachmani*
Eurasian, *Haematopus ostralegus*
PALILA, *Loxioides bailleui*
PALM-SWIFT, Antillean, *Tachornis phoenicobia*
PARROTBILL, Maui, *Pseudonestor xanthophrys*
PARULA, Northern, *Parula americana*
Tropical, *Parula pitiayumi*
PAURAQUE, Common, *Nyctidromus albicollis*
PELICAN, American White, *Pelecanus erythrorhynchos*
Brown, *Pelecanus occidentalis*
PETREL, Bermuda, *Pterodroma cahow*
Black-capped, *Pterodroma hasitata*
Black-winged, *Pterodroma nigripennis*
Bonin, *Pterodroma hypoleuca*
Bulwer's, *Bulweria bulwerii*
Cook's, *Pterodroma cookii*
Gould's, *Pterodroma leucoptera*
Great-winged, *Pterodroma macroptera*
Hawaiian, *Pterodroma sandwichensis*
Herald, *Pterodroma arminjoniana*
Jouanin's, *Bulweria fallax*
Juan Fernandez, *Pterodroma externa*
Kermadec, *Pterodroma neglecta*
Mottled, *Pterodroma inexpectata*
Murphy's, *Pterodroma ultima*
Parkinson's, *Procellaria parkinsoni*
Phoenix, *Pterodroma alba*
Stejneger's, *Pterodroma longirostris*
Tahiti, *Pterodroma rostrata*
White-necked, *Pterodroma cervicalis*
PEWEE, Cuban, *Contopus caribaeus*
Greater, *Contopus pertinax*
Hispaniolan, *Contopus hispaniolensis*
Lesser Antillean, *Contopus latirostris*
PHAINOPEPLA, *Phainopepla nitens*
PHALAROPE, Red, *Phalaropus fulicarius*
Red-necked, *Phalaropus lobatus*
Wilson's, *Phalaropus tricolor*
PHOEBE, Black, *Sayornis nigricans*
Eastern, *Sayornis phoebe*
Say's, *Sayornis saya*
PIGEON, Band-tailed, *Patagioenas fasciata*
Plain, *Patagioenas inornata*
Red-billed, *Patagioenas flavirostris*
Scaly-naped, *Patagioenas squamosa*
White-crowned, *Patagioenas leucocephala*
PINTAIL, Northern, *Anas acuta*
White-cheeked, *Anas bahamensis*
PIPIT, American, *Anthus rubescens*
Olive-backed, *Anthus hodgsoni*
Pechora, *Anthus gustavi*

Red-throated, *Anthus cervinus*
Sprague's, *Anthus spragueii*
Tree, *Anthus trivialis*
PLOVER, Black-bellied, *Pluvialis squatarola*
Collared, *Charadrius collaris*
Common Ringed, *Charadrius hiaticula*
Little Ringed, *Charadrius dubius*
Mountain, *Charadrius montanus*
Piping, *Charadrius melodus*
Semipalmated, *Charadrius semipalmatus*
Snowy, *Charadrius alexandrinus*
Wilson's, *Charadrius wilsonia*
POCHARD, Baer's, *Aythya baeri*
Common, *Aythya ferina*
POND–HERON, Chinese, *Ardeola bacchus*
POORWILL, Common, *Phalaenoptilus nuttallii*
POO–ULI, *Melamprosops phaeosoma*
PUAIOHI, *Myadestes palmeri*
PUFFIN, Atlantic, *Fratercula arctica*
Horned, *Fratercula corniculata*
Tufted, *Fratercula cirrhata*
PYGMY–OWL, Ferruginous, *Glaucidium brasilianum*
Northern, *Glaucidium gnoma*
PYRRHULOXIA, *Cardinalis sinuatus*
QUAIL–DOVE, Bridled, *Geotrygon mystacea*
Key West, *Geotrygon chrysia*
Ruddy, *Geotrygon montana*
QUETZEL, Eared, *Euptilotis neoxenus*
RAIL, Black, *Laterallus jamaicensis*
Buff-banded, *Gallirallus philippensis*
Clapper, *Rallus longirostris*
Guam, *Gallirallus owstoni*
King, *Rallus elegans*
Spotted, *Pardirallus maculatus*
Virginia, *Rallus limicola*
Yellow, *Coturnicops noveboracensis*
RAVEN, Chihuahuan, *Corvus cryptoleucus*
Common, *Corvus corax*
RAZORBILL, *Alca torda*
REDHEAD, *Aythya americana*
REDPOLL, Common, *Acanthis flammea*
Hoary, *Acanthis hornemanni*
REDSHANK, Spotted, *Tringa erythropus*
REDSTART, American, *Setophaga ruticilla*
Painted, *Myioborus pictus*
Slate-throated, *Myioborus miniatus*
REED–WARBLER, Nightingale, *Acrocephalus luscinia*
REEF–EGRET, Pacific, *Egretta sacra*
REEF–HERON, Western, *Egretta gularis*
ROADRUNNER, Greater, *Geococcyx californianus*
ROBIN, American, *Turdus migratorius*
Rufous-backed, *Turdus rufopalliatus*
Rufous-tailed, *Luscinia sibilans*
Siberian Blue, *Luscinia cyane*
ROCK–THRUSH, Blue, *Monticola solitarius*
ROSEFINCH, Common, *Carpodacus erythrinus*
ROSY–FINCH, Black, *Leucosticte atrata*
Brown-capped, *Leucosticte australis*
Gray-crowned, *Leucosticte tephrocotis*
RUBYTHROAT, Siberian, *Luscinia calliope*
RUFF, *Philomachus pugnax*
SANDERLING, *Calidris alba*
SANDPIPER, Baird's, *Calidris bairdii*
Broad-billed, *Limicola falcinellus*
Buff-breasted, *Tryngites subruficollis*
Common, *Actitis hypoleucos*
Curlew, *Calidris ferruginea*
Green, *Tringa ochropus*
Least, *Calidris minutilla*
Marsh, *Tringa stagnatilis*
Pectoral, *Calidris melanotos*
Purple, *Calidris maritima*
Rock, *Calidris ptilocnemis*
Semipalmated, *Calidris pusilla*
Sharp-tailed, *Calidris acuminata*
Solitary, *Tringa solitaria*
Spoon-billed, *Eurynorhynchus pygmeus*
Spotted, *Actitis macularius*
Stilt, *Calidris himantopus*
Terek, *Xenus cinereus*
Upland, *Bartramia longicauda*
Western, *Calidris mauri*
White-rumped, *Calidris fuscicollis*
Wood, *Tringa glareola*
SAND–PLOVER, Greater, *Charadrius leschenaultii*
Lesser, *Charadrius mongolus*
SAPSUCKER, Red-breasted, *Sphyrapicus ruber*
Red-naped, *Sphyrapicus nuchalis*
Williamson's, *Sphyrapicus thyroideus*
Yellow-bellied, *Sphyrapicus varius*
SCAUP, Greater, *Aythya marila*
Lesser, *Aythya affinis*
SCOPS-OWL, Oriental, *Otus sunia*
SCOTER, Black, *Melanitta americana*
Surf, *Melanitta perspicillata*
White-winged, *Melanitta fusca*
SCREECH-OWL, Eastern, *Megascops asio*
Puerto Rican, *Megascops nudipes*
Western, *Megascops kennicottii*
Whiskered, *Megascops trichopsis*
SCRUB-JAY, Florida, *Aphelocoma coerulescens*
Island, *Aphelocoma insularis*
Western, *Aphelocoma californica*
SEA-EAGLE, Steller's, *Haliaeetus pelagicus*
SEEDEATER, White-collared, *Sporophila torqueola*
SHEARWATER, Audubon's, *Puffinus lherminieri*
Black-vented, *Puffinus opisthomelas*
Buller's, *Puffinus bulleri*
Cape Verde, *Calonectris edwardsii*
Christmas, *Puffinus nativitatis*
Cory's, *Calonectris diomedea*
Flesh-footed, *Puffinus carneipes*
Great, *Puffinus gravis*
Little, *Puffinus assimilis*
Manx, *Puffinus puffinus*
Pink-footed, *Puffinus creatopus*
Short-tailed, *Puffinus tenuirostris*
Sooty, *Puffinus griseus*
Streaked, *Calonectris leucomelas*
Townsend's, *Puffinus auricularis*
Wedge-tailed, *Puffinus pacificus*
SHOVELER, Northern, *Anas clypeata*
SHRIKE, Brown, *Lanius cristatus*
Loggerhead, *Lanius ludovicianus*
Northern, *Lanius excubitor*
SILKY-FLYCATCHER, Gray, *Ptilogonys cinereus*
SISKIN, Eurasian, *Spinus spinus*
Pine, *Spinus pinus*
SKIMMER, Black, *Rynchops niger*
SKUA, Great, *Stercorarius skua*
South Polar, *Stercorarius maccormicki*
SMEW, *Mergellus albellus*
SNIPE, Common, *Gallinago gallinago*
Jack, *Lymnocryptes minimus*
Pin-tailed, *Gallinago stenura*
Swinhoe's, *Gallinago megala*
Wilson's, *Gallinago delicata*
SOLITAIRE, Townsend's, *Myadestes townsendi*
SORA, *Porzana carolina*
SPARROW, American Tree, *Spizella arborea*
Bachman's, *Peucaea aestivalis*
Baird's, *Ammodramus bairdii*
Black-chinned, *Spizella atrogularis*
Black-throated, *Amphispiza bilineata*
Botteri's, *Peucaea botterii*
Brewer's, *Spizella breweri*
Cassin's, *Peucaea cassinii*
Chipping, *Spizella passerina*
Clay-colored, *Spizella pallida*
Field, *Spizella pusilla*
Five-striped, *Amphispiza quinquestriata*
Fox, *Passerella iliaca*
Golden-crowned, *Zonotrichia atricapilla*
Grasshopper, *Ammodramus savannarum*
Harris's, *Zonotrichia querula*
Henslow's, *Ammodramus henslowii*
Lark, *Chondestes grammacus*
Le Conte's, *Ammodramus leconteii*
Lincoln's, *Melospiza lincolnii*
Nelson's, *Ammodramus nelsoni*
Olive, *Arremonops rufivirgatus*
Rufous-crowned, *Aimophila ruficeps*
Rufous-winged, *Peucaea carpalis*
Sage, *Amphispiza belli*
Saltmarsh, *Ammodramus caudacutus*
Savannah, *Passerculus sandwichensis*
Seaside, *Ammodramus maritimus*
Song, *Melospiza melodia*
Swamp, *Melospiza georgiana*
Vesper, *Pooecetes gramineus*
White-crowned, *Zonotrichia leucophrys*
White-throated, *Zonotrichia albicollis*
Worthen's, *Spizella wortheni*
SPARROWHAWK, Japanese, *Accipiter gularis*
SPINDALIS, Puerto Rican, *Spindalis portoricensis*

Western, *Spindalis zena*
SPOONBILL, Roseate, *Platalea ajaja*
STARLING, Chestnut-cheeked, *Sturnus philippensis*
White-cheeked, *Sturnus cineraceus*
STARTHROAT, Plain-capped, *Heliomaster constantii*
STILT, Black-necked, *Himantopus mexicanus*
Black-winged, *Himantopus himantopus*
STINT, Little, *Calidris minuta*
Long-toed, *Calidris subminuta*
Red-necked, *Calidris ruficollis*
Temminck's, *Calidris temminckii*
STONECHAT, *Saxicola torquatus*
STORK, Wood, *Mycteria americana*
STORM-PETREL, Ashy, *Oceanodroma homochroa*
Band-rumped, *Oceanodroma castro*
Black, *Oceanodroma melania*
Black-bellied, *Fregetta tropica*
Fork-tailed, *Oceanodroma furcata*
Leach's, *Oceanodroma leucorhoa*
Least, *Oceanodroma microsoma*
Matsudaira's, *Oceanodroma matsudairae*
Polynesian, *Nesofregetta fuliginosa*
Ringed, *Oceanodroma hornbyi*
Swinhoe's, *Oceanodroma monorhis*
Tristram's, *Oceanodroma tristrami*
Wedge-rumped, *Oceanodroma tethys*
White-faced, *Pelagodroma marina*
White-bellied, *Fregetta grallaria*
Wilson's, *Oceanites oceanicus*
SURFBIRD, *Aphriza virgata*
SWALLOW, Bahama, *Tachycineta cyaneoviridis*
Bank, *Riparia riparia*
Barn, *Hirundo rustica*
Cave, *Petrochelidon fulva*
Cliff, *Petrochelidon pyrrhonota*
Mangrove, *Tachycineta albilinea*
Northern Rough-winged, *Stelgidopteryx serripennis*
Tree, *Tachycineta bicolor*
Violet-green, *Tachycineta thalassina*
SWAMPHEN, Purple, *Porphyrio porphyrio*
SWAN, Trumpeter, *Cygnus buccinator*
Tundra, *Cygnus columbianus*
Whooper, *Cygnus cygnus*
SWIFT, Alpine, *Apus melba*
Black, *Cypseloides niger*
Chimney, *Chaetura pelagica*
Common, *Apus apus*
Fork-tailed, *Apus pacificus*
Short-tailed, *Chaetura brachyura*
Vaux's, *Chaetura vauxi*
White-collared, *Streptoprocne zonaris*
White-throated, *Aeronautes saxatalis*
SWIFTLET, Mariana, *Aerodramus bartschi*
White-rumped, *Aerodramus spodiopygius*
TANAGER, Flame-colored, *Piranga bidentata*
Hepatic, *Piranga flava*
Puerto Rican, *Nesospingus speculiferus*
Scarlet, *Piranga olivacea*
Summer, *Piranga rubra*
Western, *Piranga ludoviciana*
TATTLER, Gray-tailed, *Tringa brevipes*
Wandering, *Tringa incana*
TEAL, Baikal, *Anas formosa*
Blue-winged, *Anas discors*
Cinnamon, *Anas cyanoptera*
Green-winged, *Anas crecca*
TERN, Aleutian, *Onychoprion aleuticus*
Arctic, *Sterna paradisaea*
Black, *Chlidonias niger*
Black-naped, *Sterna sumatrana*
Bridled, *Onychoprion anaethetus*
Caspian, *Hydroprogne caspia*
Common, *Sterna hirundo*
Elegant, *Thalasseus elegans*
Forster's, *Sterna forsteri*
Gray-backed, *Onychoprion lunatus*
Great Crested, *Thalasseus bergii*
Gull-billed, *Gelochelidon nilotica*
Large-billed, *Phaetusa simplex*
Least, *Sternula antillarum*
Little, *Sternula albifrons*
Roseate, *Sterna dougallii*
Royal, *Thalesseus maximus*
Sandwich, *Thalesseus sandvicensis*
Sooty, *Onychoprion fuscatus*
Whiskered, *Chlidonias hybrida*
White, *Gygis alba*
White-winged, *Chlidonias leucopterus*
THRASHER, Bendire's, *Toxostoma bendirei*
Brown, *Toxostoma rufum*
California, *Toxostoma redivivum*
Crissal, *Toxostoma crissale*
Curve-billed, *Toxostoma curvirostre*
Le Conte's, *Toxostoma lecontei*
Long-billed, *Toxostoma longirostre*
Pearly-eyed, *Margarops fuscatus*
Sage, *Oreoscoptes montanus*
THRUSH, Aztec, *Ridgwayia pinicola*
Bicknell's, *Catharus bicknelli*
Clay-colored, *Turdus grayi*
Dusky, *Turdus naumanni*
Eyebrowed, *Turdus obscurus*
Gray-cheeked, *Catharus minimus*
Hermit, *Catharus guttatus*
Red-legged, *Turdus plumbeus*
Swainson's, *Catharus ustulatus*
Varied, *Ixoreus naevius*
White-throated, *Turdus assimilis*
Wood, *Hylocichla mustelina*
TITMOUSE, Black-crested, *Baeolophus atricristatus*
Bridled, *Baeolophus wollweberi*
Juniper, *Baeolophus ridgwayi*
Oak, *Baeolophus inornatus*
Tufted, *Baeolophus bicolor*
TITYRA, Masked, *Tityra semifasciata*
TOWHEE, Abert's, *Melozone aberti*
California, *Melozone crissalis*
Canyon, *Melozone fusca*
Eastern, *Pipilo erythrophthalmus*
Green-tailed, *Pipilo chlorurus*
Spotted, *Pipilo maculatus*
TROGON, Elegant, *Trogon elegans*
TROPICBIRD, Red-billed, *Phaethon aethereus*
Red-tailed, *Phaethon rubricauda*
White-tailed, *Phaethon lepturus*
TURNSTONE, Black, *Arenaria melanocephala*
Ruddy, *Arenaria interpres*
TURTLE-DOVE, Oriental, *Streptopelia orientalis*
VEERY, *Catharus fuscescens*
VERDIN, *Auriparus flaviceps*
VIOLETEAR, Green, *Colibri thalassinus*
VIREO, Bell's, *Vireo bellii*
Black-capped, *Vireo atricapilla*
Black-whiskered, *Vireo altiloquus*
Blue-headed, *Vireo solitarius*
Cassin's, *Vireo cassinii*
Gray, *Vireo vicinior*
Hutton's, *Vireo huttoni*
Philadelphia, *Vireo philadelphicus*
Plumbeous, *Vireo plumbeus*
Puerto Rican, *Vireo latimeri*
Red-eyed, *Vireo olivaceus*
Thick-billed, *Vireo crassirostris*
Warbling, *Vireo gilvus*
White-eyed, *Vireo griseus*
Yellow-green, *Vireo flavoviridis*
Yellow-throated, *Vireo flavifrons*
Yucatan, *Vireo magister*
VULTURE, Black, *Coragyps atratus*
Turkey, *Cathartes aura*
WAGTAIL, Citrine, *Motacilla citreola*
Eastern Yellow, *Motacilla tschutschensis*
Gray, *Motacilla cinerea*
White, *Motacilla alba*
WARBLER, Adelaide's, *Dendroica adelaidae*
Arctic, *Phylloscopus borealis*
Bachman's, *Vermivora bachmanii*
Bay-breasted, *Dendroica castanea*
Black-and-white, *Mniotilta varia*
Black-throated Blue, *Dendroica caerulescens*
Black-throated Gray, *Dendroica nigrescens*
Black-throated Green, *Dendroica virens*
Blackburnian, *Dendroica fusca*
Blackpoll, *Dendroica striata*
Blue-winged, *Vermivora cyanoptera*
Canada, *Wilsonia canadensis*
Cape May, *Dendroica tigrina*
Cerulean, *Dendroica cerulea*
Chestnut-sided, *Dendroica pensylvanica*
Colima, *Oreothlypis crissalis*
Connecticut, *Oporornis agilis*
Crescent-chested, *Oreothlypis superciliosa*
Dusky, *Phylloscopus fuscatus*
Elfin-woods, *Dendroica angelae*
Fan-tailed, *Euthlypis lachrymosa*
Golden-cheeked, *Dendroica chrysoparia*
Golden-crowned, *Basileuterus culicivorus*
Golden-winged, *Vermivora chrysoptera*

Grace's, *Dendroica graciae*
Hermit, *Dendroica occidentalis*
Hooded, *Wilsonia citrina*
Kentucky, *Oporornis formosus*
Kirtland's, *Dendroica kirtlandii*
Lanceolated, *Locustella lanceolata*
Lucy's, *Oreothlypis luciae*
MacGillivray's, *Oporornis tolmiei*
Magnolia, *Dendroica magnolia*
Mourning, *Oporornis philadelphia*
Nashville, *Oreothlypis ruficapilla*
Olive, *Peucedramus taeniatus*
Orange-crowned, *Oreothlypis celata*
Palm, *Dendroica palmarum*
Pine, *Dendroica pinus*
Prairie, *Dendroica discolor*
Prothonotary, *Protonotaria citrea*
Red-faced, *Cardellina rubrifrons*
Rufous-capped, *Basileuterus rufifrons*
Sedge, *Acrocephalus schoenobaenus*
Swainson's, *Limnothlypis swainsonii*
Tennessee, *Oreothlypis peregrina*
Townsend's, *Dendroica townsendi*
Virginia's, *Oreothlypis virginiae*
Willow, *Phylloscopus trochilus*
Wilson's, *Wilsonia pusilla*
Wood, *Phylloscopus sibilatrix*
Worm-eating, *Helmitheros vermivorum*
Yellow, *Dendroica petechia*
Yellow-browed, *Phylloscopus inornatus*
Yellow-rumped, *Dendroica coronata*
Yellow-throated, *Dendroica dominica*
WATERTHRUSH, Louisiana, *Parkesia motacilla*
Northern, *Parkesia noveboracensis*
WAXWING, Bohemian, *Bombycilla garrulus*
Cedar, *Bombycilla cedrorum*
WHEATEAR, Northern, *Oenanthe oenanthe*
WHIMBREL, *Numenius phaeopus*
WHIP-POOR-WILL, Eastern, *Caprimulgus vociferus*
Mexican, *Caprimulgus arizonae*
WHISTLING-DUCK, Black-bellied, *Dendrocygna autumnalis*
Fulvous, *Dendrocygna bicolor*
West Indian, *Dendrocygna arborea*
WHITETHROAT, Lesser, *Sylvia curruca*
WIGEON, American, *Anas americana*
Eurasian, *Anas penelope*
WILLET, *Tringa semipalmata*
WOOD-PEWEE, Eastern, *Contopus virens*
Western, *Contopus sordidulus*
WOODCOCK, American, *Scolopax minor*
Eurasian, *Scolopax rusticola*
WOODPECKER, Acorn, *Melanerpes formicivorus*
American Three-toed, *Picoides dorsalis*
Arizona, *Picoides arizonae*
Black-backed, *Picoides arcticus*
Downy, *Picoides pubescens*
Gila, *Melanerpes uropygialis*
Golden-fronted, *Melanerpes aurifrons*
Great Spotted, *Dendrocopos major*
Hairy, *Picoides villosus*
Ivory-billed, *Campephilus principalis*
Ladder-backed, *Picoides scalaris*
Lewis's, *Melanerpes lewis*
Nuttall's, *Picoides nuttallii*
Pileated, *Dryocopus pileatus*
Puerto Rican, *Melanerpes portoricensis*
Red-bellied, *Melanerpes carolinus*
Red-cockaded, *Picoides borealis*
Red-headed, *Melanerpes erythrocephalus*
White-headed, *Picoides albolarvatus*
WOODSTAR, Bahama, *Calliphlox evelynae*
WREN, Bewick's *Thryomanes bewickii*
Cactus, *Campylorhynchus brunneicapillus*
Canyon, *Catherpes mexicanus*
Carolina, *Thryothorus ludovicianus*
House, *Troglodytes aedon*
Marsh, *Cistothorus palustris*
Pacific, *Troglodytes pacificus*
Rock, *Salpinctes obsoletus*
Sedge, *Cistothorus platensis*
Sinaloa, *Thryothorus sinaloa*
Winter, *Troglodytes hiemalis*
WRENTIT, *Chamaea fasciata*
WRYNECK, Eurasian, *Jynx torquilla*
YELLOWLEGS, Greater, *Tringa melanoleuca*
Lesser, *Tringa flavipes*
YELLOWTHROAT, Common, *Geothlypis trichas*
Gray-crowned, *Geothlypis poliocephala*

(2) *Taxonomic listing.* Species are listed in phylogenetic sequence by scientific name, with the common (English) name following the scientific name. To help clarify species relationships, we also list the higher-level taxonomic categories of Order, Family, and Subfamily.

Order ANSERIFORMES
Family ANATIDAE
Subfamily DENDROCYGNINAE
*Dendrocygna autumnalis,* Black-bellied Whistling-Duck
*Dendrocygna arborea,* West Indian Whistling-Duck
*Dendrocygna bicolor,* Fulvous Whistling-Duck
Subfamily ANSERINAE
*Anser fabalis,* Taiga Bean-Goose
*Anser serrirostris,* Tundra Bean-Goose
*Anser albifrons,* Greater White-fronted Goose
*Anser erythropus,* Lesser White-fronted Goose
*Chen canagica,* Emperor Goose
*Chen caerulescens,* Snow Goose
*Chen rossii,* Ross's Goose
*Branta bernicla,* Brant
*Branta leucopsis,* Barnacle Goose
*Branta canadensis,* Canada Goose (including *Branta hutchinsii,* Cackling Goose)
*Branta sandvicensis,* Hawaiian Goose
*Cygnus buccinator,* Trumpeter Swan
*Cygnus columbianus,* Tundra Swan
*Cygnus cygnus,* Whooper Swan
Subfamily ANATINAE
*Cairina moschata,* Muscovy Duck
*Aix sponsa,* Wood Duck
*Anas strepera,* Gadwall
*Anas falcata,* Falcated Duck
*Anas penelope,* Eurasian Wigeon
*Anas americana,* American Wigeon
*Anas rubripes,* American Black Duck
*Anas platyrhynchos,* Mallard
*Anas fulvigula,* Mottled Duck
*Anas wyvilliana,* Hawaiian Duck
*Anas laysanensis,* Laysan Duck
*Anas zonorhyncha,* Eastern Spot-billed Duck
*Anas superciliosa,* Pacific Black Duck
*Anas discors,* Blue-winged Teal
*Anas cyanoptera,* Cinnamon Teal
*Anas clypeata,* Northern Shoveler
*Anas bahamensis,* White-cheeked Pintail
*Anas acuta,* Northern Pintail
*Anas querquedula,* Garganey
*Anas formosa,* Baikal Teal
*Anas crecca,* Green-winged Teal
*Aythya valisineria,* Canvasback
*Aythya americana,* Redhead
*Aythya ferina,* Common Pochard
*Aythya baeri,* Baer's Pochard
*Aythya collaris,* Ring-necked Duck
*Aythya fuligula,* Tufted Duck
*Aythya marila,* Greater Scaup
*Aythya affinis,* Lesser Scaup
*Polysticta stelleri,* Steller's Eider
*Somateria fischeri,* Spectacled Eider
*Somateria spectabilis,* King Eider
*Somateria mollissima,* Common Eider
*Histrionicus histrionicus,* Harlequin Duck
*Melanitta perspicillata,* Surf Scoter
*Melanitta fusca,* White-winged Scoter
*Melanitta americana,* Black Scoter
*Clangula hyemalis,* Long-tailed Duck
*Bucephala albeola,* Bufflehead
*Bucephala clangula,* Common Goldeneye
*Bucephala islandica,* Barrow's Goldeneye
*Mergellus albellus,* Smew
*Lophodytes cucullatus,* Hooded Merganser
*Mergus merganser,* Common Merganser
*Mergus serrator,* Red-breasted Merganser
*Nomonyx dominicus,* Masked Duck
*Oxyura jamaicensis,* Ruddy Duck
Order GAVIIFORMES
Family GAVIIDAE
*Gavia stellata,* Red-throated Loon
*Gavia arctica,* Arctic Loon
*Gavia pacifica,* Pacific Loon
*Gavia immer,* Common Loon
*Gavia adamsii,* Yellow-billed Loon
Order PODICIPEDIFORMES
Family PODICIPEDIDAE

*Tachybaptus dominicus,* Least Grebe
*Podilymbus podiceps,* Pied-billed Grebe
*Podiceps auritus,* Horned Grebe
*Podiceps grisegena,* Red-necked Grebe
*Podiceps nigricollis,* Eared Grebe
*Aechmophorus occidentalis,* Western Grebe
*Aechmophorus clarkii,* Clark's Grebe
Order PHOENICOPTERIFORMES
Family PHOENICOPTERIDAE
*Phoenicopterus ruber,* American Flamingo
Order PROCELLARIIFORMES
Family DIOMEDEIDAE
*Thalassarche chlororhynchos,* Yellow-nosed Albatross
*Thalassarche cauta,* Shy Albatross
*Thalassarche melanophris,* Black-browed Albatross
*Phoebetria palpebrata,* Light-mantled Albatross
*Diomedea exulans,* Wandering Albatross
*Phoebastria immutabilis,* Laysan Albatross
*Phoebastria nigripes,* Black-footed Albatross
*Phoebastria albatrus,* Short-tailed Albatross
Family PROCELLARIIDAE
*Fulmarus glacialis,* Northern Fulmar
*Pterodroma macroptera,* Great-winged Petrel
*Pterodroma neglecta,* Kermadec Petrel
*Pterodroma arminjoniana,* Herald Petrel
*Pterodroma ultima,* Murphy's Petrel
*Pterodroma inexpectata,* Mottled Petrel
*Pterodroma cahow,* Bermuda Petrel
*Pterodroma hasitata,* Black-capped Petrel
*Pterodroma externa,* Juan Fernandez Petrel
*Pterodroma sandwichensis,* Hawaiian Petrel
*Pterodroma cervicalis,* White-necked Petrel
*Pterodroma hypoleuca,* Bonin Petrel
*Pterodroma nigripennis,* Black-winged Petrel
*Pterodroma cookii,* Cook's Petrel
*Pterodroma longirostris,* Stejneger's Petrel
*Pterodroma alba,* Phoenix Petrel
*Pterodroma leucoptera,* Gould's Petrel
*Pterodroma rostrata,* Tahiti Petrel
*Bulweria bulwerii,* Bulwer's Petrel
*Bulweria fallax,* Jouanin's Petrel
*Procellaria parkinsoni,* Parkinson's Petrel
*Calonectris leucomelas,* Streaked Shearwater
*Calonectris diomedea,* Cory's Shearwater
*Calonectris edwardsii,* Cape Verde Shearwater
*Puffinus creatopus,* Pink-footed Shearwater
*Puffinus carneipes,* Flesh-footed Shearwater
*Puffinus gravis,* Great Shearwater
*Puffinus pacificus,* Wedge-tailed Shearwater
*Puffinus bulleri,* Buller's Shearwater
*Puffinus griseus,* Sooty Shearwater
*Puffinus tenuirostris,* Short-tailed Shearwater
*Puffinus nativitatis,* Christmas Shearwater
*Puffinus puffinus,* Manx Shearwater
*Puffinus auricularis,* Townsend's Shearwater
*Puffinus opisthomelas,* Black-vented Shearwater
*Puffinus lherminieri,* Audubon's Shearwater
*Puffinus assimilis,* Little Shearwater
Family HYDROBATIDAE
*Oceanites oceanicus,* Wilson's Storm-Petrel
*Pelagodroma marina,* White-faced Storm-Petrel
*Fregetta tropica,* Black-bellied Storm-Petrel
*Fregetta grallaria,* White-bellied Storm-Petrel
*Nesofregetta fuliginosa,* Polynesian Storm-Petrel
*Oceanodroma furcata,* Fork-tailed Storm-Petrel
*Oceanodroma hornbyi,* Ringed Storm-Petrel
*Oceanodroma monorhis,* Swinhoe's Storm-Petrel
*Oceanodroma leucorhoa,* Leach's Storm-Petrel
*Oceanodroma homochroa,* Ashy Storm-Petrel
*Oceanodroma castro,* Band-rumped Storm-Petrel
*Oceanodroma tethys,* Wedge-rumped Storm-Petrel
*Oceanodroma matsudairae,* Matsudaira's Storm-Petrel
*Oceanodroma melania,* Black Storm-Petrel
*Oceanodroma tristrami,* Tristram's Storm-Petrel
*Oceanodroma microsoma,* Least Storm-Petrel
Order PHAETHONTIFORMES
Family PHAETHONTIDAE
*Phaethon lepturus,* White-tailed Tropicbird
*Phaethon aethereus,* Red-billed Tropicbird
*Phaethon rubricauda,* Red-tailed Tropicbird
Order CICONIIFORMES
Family CICONIIDAE
*Jabiru mycteria,* Jabiru
*Mycteria americana,* Wood Stork
Order SULIFORMES
Family FREGATIDAE
*Fregata magnificens,* Magnificent Frigatebird
*Fregata minor,* Great Frigatebird
*Fregata ariel,* Lesser Frigatebird
Family SULIDAE
*Sula dactylatra,* Masked Booby
*Sula nebouxii,* Blue-footed Booby
*Sula leucogaster,* Brown Booby
*Sula sula,* Red-footed Booby
*Morus bassanus,* Northern Gannet
Family PHALACROCORACIDAE
*Phalacrocorax penicillatus,* Brandt's Cormorant
*Phalacrocorax brasilianus,* Neotropic Cormorant
*Phalacrocorax auritus,* Double-crested Cormorant
*Phalacrocorax carbo,* Great Cormorant
*Phalacrocorax urile,* Red-faced Cormorant
*Phalacrocorax pelagicus,* Pelagic Cormorant
*Phalacrocorax melanoleucos,* Little Pied Cormorant
Family ANHINGIDAE
*Anhinga anhinga,* Anhinga
Order PELECANIFORMES
Family PELECANIDAE
*Pelecanus erythrorhynchos,* American White Pelican
*Pelecanus occidentalis,* Brown Pelican
Family ARDEIDAE
*Botaurus lentiginosus,* American Bittern
*Ixobrychus sinensis,* Yellow Bittern
*Ixobrychus exilis,* Least Bittern
*Ixobrychus eurhythmus,* Schrenck's Bittern
*Ixobrychus flavicollis,* Black Bittern
*Ardea herodias,* Great Blue Heron
*Ardea cinerea,* Gray Heron
*Ardea alba,* Great Egret
*Mesophoyx intermedia,* Intermediate Egret
*Egretta eulophotes,* Chinese Egret
*Egretta garzetta,* Little Egret
*Egretta sacra,* Pacific Reef-Egret
*Egretta gularis,* Western Reef-Heron
*Egretta thula,* Snowy Egret
*Egretta caerulea,* Little Blue Heron
*Egretta tricolor,* Tricolored Heron
*Egretta rufescens,* Reddish Egret
*Bubulcus ibis,* Cattle Egret
*Ardeola bacchus,* Chinese Pond-Heron
*Butorides virescens,* Green Heron
*Nycticorax nycticorax,* Black-crowned Night-Heron
*Nyctanassa violacea,* Yellow-crowned Night-Heron
*Gorsachius goisagi,* Japanese Night-Heron
*Gorsachius melanolophus,* Malayan Night-Heron
Family THRESKIORNITHIDAE
Subfamily THRESKIORNITHINAE
*Eudocimus albus,* White Ibis
*Eudocimus ruber,* Scarlet Ibis
*Plegadis falcinellus,* Glossy Ibis
*Plegadis chihi,* White-faced Ibis

Subfamily PLATALEINAE
*Platalea ajaja,* Roseate Spoonbill
Order ACCIPITRIFORMES
Family CATHARTIDAE
*Coragyps atratus,* Black Vulture
*Cathartes aura,* Turkey Vulture
*Gymnogyps californianus,* California Condor
Family PANDIONIDAE
*Pandion haliaetus,* Osprey
Family ACCIPITRIDAE
*Chondrohierax uncinatus,* Hook-billed Kite
*Elanoides forficatus,* Swallow-tailed Kite
*Elanus leucurus,* White-tailed Kite
*Rostrhamus sociabilis,* Snail Kite
*Ictinia mississippiensis,* Mississippi Kite
*Milvus migrans,* Black Kite
*Haliaeetus leucocephalus,* Bald Eagle
*Haliaeetus albicilla,* White-tailed Eagle
*Haliaeetus pelagicus,* Steller's Sea-Eagle
*Circus cyaneus,* Northern Harrier
*Accipiter soloensis,* Gray Frog-Hawk
*Accipiter gularis,* Japanese Sparrowhawk
*Accipiter striatus,* Sharp-shinned Hawk
*Accipiter cooperii,* Cooper's Hawk
*Accipiter gentilis,* Northern Goshawk
*Geranospiza caerulescens,* Crane Hawk
*Buteogallus anthracinus,* Common Black-Hawk
*Parabuteo unicinctus,* Harris's Hawk
*Buteo magnirostris,* Roadside Hawk
*Buteo lineatus,* Red-shouldered Hawk
*Buteo platypterus,* Broad-winged Hawk
*Buteo nitidus,* Gray Hawk
*Buteo brachyurus,* Short-tailed Hawk
*Buteo swainsoni,* Swainson's Hawk
*Buteo albicaudatus,* White-tailed Hawk
*Buteo albonotatus,* Zone-tailed Hawk
*Buteo solitarius,* Hawaiian Hawk
*Buteo jamaicensis,* Red-tailed Hawk
*Buteo regalis,* Ferruginous Hawk
*Buteo lagopus,* Rough-legged Hawk
*Aquila chrysaetos,* Golden Eagle
Order FALCONIFORMES
Family FALCONIDAE
Subfamily MICRASTURINAE
*Micrastur semitorquatus,* Collared Forest-Falcon
Subfamily CARACARINAE
*Caracara cheriway,* Crested Caracara
Subfamily FALCONINAE
*Falco tinnunculus,* Eurasian Kestrel
*Falco sparverius,* American Kestrel
*Falco vespertinus,* Red-footed Falcon
*Falco columbarius,* Merlin
*Falco subbuteo,* Eurasian Hobby
*Falco femoralis,* Aplomado Falcon
*Falco rusticolus,* Gyrfalcon
*Falco peregrinus,* Peregrine Falcon
*Falco mexicanus,* Prairie Falcon
Order GRUIFORMES
Family RALLIDAE
*Coturnicops noveboracensis,* Yellow Rail
*Laterallus jamaicensis,* Black Rail
*Gallirallus philippensis,* Buff-banded Rail
*Gallirallus owstoni,* Guam Rail
*Crex crex,* Corn Crake
*Rallus longirostris,* Clapper Rail
*Rallus elegans,* King Rail
*Rallus limicola,* Virginia Rail
*Porzana carolina,* Sora
*Porzana tabuensis,* Spotless Crake
*Porzana flaviventer,* Yellow-breasted Crake
*Neocrex erythrops,* Paint-billed Crake
*Pardirallus maculatus,* Spotted Rail
*Porphyrio porphyrio,* Purple Swamphen
*Porphyrio martinica,* Purple Gallinule
*Porphyrio flavirostris,* Azure Gallinule
*Gallinula chloropus,* Common Moorhen
*Fulica atra,* Eurasian Coot
*Fulica alai,* Hawaiian Coot
*Fulica americana,* American Coot
*Fulica caribaea,* Caribbean Coot
Family ARAMIDAE
*Aramus guarauna,* Limpkin
Family GRUIDAE
*Grus canadensis,* Sandhill Crane
*Grus grus,* Common Crane
*Grus americana,* Whooping Crane
Order CHARADRIIFORMES
Family CHARADRIIDAE
Subfamily VANELLINAE
*Vanellus vanellus,* Northern Lapwing
Subfamily CHARADRIINAE
*Pluvialis squatarola,* Black-bellied Plover
*Pluvialis apricaria,* European Golden-Plover
*Pluvialis dominica,* American Golden-Plover
*Pluvialis fulva,* Pacific Golden-Plover
*Charadrius mongolus,* Lesser Sand-Plover
*Charadrius leschenaultii,* Greater Sand-Plover
*Charadrius collaris,* Collared Plover
*Charadrius alexandrinus,* Snowy Plover
*Charadrius wilsonia,* Wilson's Plover
*Charadrius hiaticula,* Common Ringed Plover
*Charadrius semipalmatus,* Semipalmated Plover
*Charadrius melodus,* Piping Plover
*Charadrius dubius,* Little Ringed Plover
*Charadrius vociferus,* Killdeer
*Charadrius montanus,* Mountain Plover
*Charadrius morinellus,* Eurasian Dotterel
Family HAEMATOPODIDAE
*Haematopus ostralegus,* Eurasian Oystercatcher
*Haematopus palliatus,* American Oystercatcher
*Haematopus bachmani,* Black Oystercatcher
Family RECURVIROSTRIDAE
*Himantopus himantopus,* Black-winged Stilt
*Himantopus mexicanus,* Black-necked Stilt
*Recurvirostra americana,* American Avocet
Family JACANIDAE
*Jacana spinosa,* Northern Jacana
Family SCOLOPACIDAE
Subfamily SCOLOPACINAE
*Xenus cinereus,* Terek Sandpiper
*Actitis hypoleucos,* Common Sandpiper
*Actitis macularius,* Spotted Sandpiper
*Tringa ochropus,* Green Sandpiper
*Tringa solitaria,* Solitary Sandpiper
*Tringa brevipes,* Gray-tailed Tattler
*Tringa incana,* Wandering Tattler
*Tringa erythropus,* Spotted Redshank
*Tringa melanoleuca,* Greater Yellowlegs
*Tringa nebularia,* Common Greenshank
*Tringa guttifer,* Nordmann's Greenshank
*Tringa semipalmata,* Willet
*Tringa flavipes,* Lesser Yellowlegs
*Tringa stagnatilis,* Marsh Sandpiper
*Tringa glareola,* Wood Sandpiper
*Bartramia longicauda,* Upland Sandpiper
*Numenius minutus,* Little Curlew
*Numenius borealis,* Eskimo Curlew
*Numenius phaeopus,* Whimbrel
*Numenius tahitiensis,* Bristle-thighed Curlew
*Numenius madagascariensis,* Far Eastern Curlew
*Numenius arquata,* Eurasian Curlew
*Numenius americanus,* Long-billed Curlew
*Limosa limosa,* Black-tailed Godwit
*Limosa haemastica,* Hudsonian Godwit
*Limosa lapponica,* Bar-tailed Godwit
*Limosa fedoa,* Marbled Godwit
*Arenaria interpres,* Ruddy Turnstone
*Arenaria melanocephala,* Black Turnstone
*Aphriza virgata,* Surfbird
*Calidris tenuirostris,* Great Knot
*Calidris canutus,* Red Knot
*Calidris alba,* Sanderling
*Calidris pusilla,* Semipalmated Sandpiper
*Calidris mauri,* Western Sandpiper
*Calidris ruficollis,* Red-necked Stint
*Calidris minuta,* Little Stint
*Calidris temminckii,* Temminck's Stint
*Calidris subminuta,* Long-toed Stint
*Calidris minutilla,* Least Sandpiper
*Calidris fuscicollis,* White-rumped

Sandpiper
*Calidris bairdii,* Baird's Sandpiper
*Calidris melanotos,* Pectoral Sandpiper
*Calidris acuminata,* Sharp-tailed Sandpiper
*Calidris maritima,* Purple Sandpiper
*Calidris ptilocnemis,* Rock Sandpiper
*Calidris alpina,* Dunlin
*Calidris ferruginea,* Curlew Sandpiper
*Calidris himantopus,* Stilt Sandpiper
*Eurynorhynchus pygmeus,* Spoon-billed Sandpiper
*Limicola falcinellus,* Broad-billed Sandpiper
*Tryngites subruficollis,* Buff-breasted Sandpiper
*Philomachus pugnax,* Ruff
*Limnodromus griseus,* Short-billed Dowitcher
*Limnodromus scolopaceus,* Long-billed Dowitcher
*Lymnocryptes minimus,* Jack Snipe
*Gallinago delicata,* Wilson's Snipe
*Gallinago gallinago,* Common Snipe
*Gallinago stenura,* Pin-tailed Snipe
*Gallinago megala,* Swinhoe's Snipe
*Scolopax rusticola,* Eurasian Woodcock
*Scolopax minor,* American Woodcock
Subfamily PHALAROPODINAE
*Phalaropus tricolor,* Wilson's Phalarope
*Phalaropus lobatus,* Red-necked Phalarope
*Phalaropus fulicarius,* Red Phalarope
Family LARIDAE
Subfamily LARINAE
*Creagrus furcatus,* Swallow-tailed Gull
*Rissa tridactyla,* Black-legged Kittiwake
*Rissa brevirostris,* Red-legged Kittiwake
*Pagophila eburnea,* Ivory Gull
*Xema sabini,* Sabine's Gull
*Chroicocephalus philadelphia,* Bonaparte's Gull
*Chroicocephalus cirrocephalus,* Gray-hooded Gull
*Chroicocephalus ridibundus,* Black-headed Gull
*Hydrocoloeus minutus,* Little Gull
*Rhodostethia rosea,* Ross's Gull
*Leucophaeus atricilla,* Laughing Gull
*Leucophaeus pipixcan,* Franklin's Gull
*Larus belcheri,* Belcher's Gull
*Larus crassirostris,* Black-tailed Gull
*Larus heermanni,* Heermann's Gull
*Larus canus,* Mew Gull
*Larus delawarensis,* Ring-billed Gull
*Larus occidentalis,* Western Gull
*Larus livens,* Yellow-footed Gull
*Larus californicus,* California Gull
*Larus argentatus,* Herring Gull
*Larus michahellis,* Yellow-legged Gull
*Larus thayeri,* Thayer's Gull
*Larus glaucoides,* Iceland Gull
*Larus fuscus,* Lesser Black-backed Gull
*Larus schistisagus,* Slaty-backed Gull
*Larus glaucescens,* Glaucous-winged Gull
*Larus hyperboreus,* Glaucous Gull
*Larus marinus,* Great Black-backed Gull
*Larus dominicanus,* Kelp Gull
Subfamily STERNINAE
*Anous stolidus,* Brown Noddy
*Anous minutus,* Black Noddy
*Procelsterna cerulea,* Blue-gray Noddy
*Gygis alba,* White Tern
*Onychoprion fuscatus,* Sooty Tern
*Onychoprion lunatus,* Gray-backed Tern
*Onychoprion anaethetus,* Bridled Tern
*Onychoprion aleuticus,* Aleutian Tern
*Sternula albifrons,* Little Tern
*Sternula antillarum,* Least Tern
*Phaetusa simplex,* Large-billed Tern
*Gelochelidon nilotica,* Gull-billed Tern
*Hydroprogne caspia,* Caspian Tern
*Chlidonias niger,* Black Tern
*Chlidonias leucopterus,* White-winged Tern
*Chlidonias hybridus,* Whiskered Tern
*Sterna dougallii,* Roseate Tern
*Sterna sumatrana,* Black-naped Tern
*Sterna hirundo,* Common Tern
*Sterna paradisaea,* Arctic Tern
*Sterna forsteri,* Forster's Tern
*Thalasseus maximus,* Royal Tern
*Thalasseus bergii,* Great Crested Tern
*Thalasseus sandvicensis,* Sandwich Tern
*Thalasseus elegans,* Elegant Tern
Subfamily RYNCHOPINAE
*Rynchops niger,* Black Skimmer
Family STERCORARIIDAE
*Stercorarius skua,* Great Skua
*Stercorarius maccormicki,* South Polar Skua
*Stercorarius pomarinus,* Pomarine Jaeger
*Stercorarius parasiticus,* Parasitic Jaeger
*Stercorarius longicaudus,* Long-tailed Jaeger
Family ALCIDAE
*Alle alle,* Dovekie
*Uria aalge,* Common Murre
*Uria lomvia,* Thick-billed Murre
*Alca torda,* Razorbill
*Cepphus grylle,* Black Guillemot
*Cepphus columba,* Pigeon Guillemot
*Brachyramphus perdix,* Long-billed Murrelet
*Brachyramphus marmoratus,* Marbled Murrelet
*Brachyramphus brevirostris,* Kittlitz's Murrelet
*Synthliboramphus hypoleucus,* Xantus's Murrelet
*Synthliboramphus craveri,* Craveri's Murrelet
*Synthliboramphus antiquus,* Ancient Murrelet
*Ptychoramphus aleuticus,* Cassin's Auklet
*Aethia psittacula,* Parakeet Auklet
*Aethia pusilla,* Least Auklet
*Aethia pygmaea,* Whiskered Auklet
*Aethia cristatella,* Crested Auklet
*Cerorhinca monocerata,* Rhinoceros Auklet
*Fratercula arctica,* Atlantic Puffin
*Fratercula corniculata,* Horned Puffin
*Fratercula cirrhata,* Tufted Puffin
Order COLUMBIFORMES
Family COLUMBIDAE
*Patagioenas squamosa,* Scaly-naped Pigeon
*Patagioenas leucocephala,* White-crowned Pigeon
*Patagioenas flavirostris,* Red-billed Pigeon
*Patagioenas inornata,* Plain Pigeon
*Patagioenas fasciata,* Band-tailed Pigeon
*Streptopelia orientalis,* Oriental Turtle-Dove
*Zenaida asiatica,* White-winged Dove
*Zenaida aurita,* Zenaida Dove
*Zenaida macroura,* Mourning Dove
*Columbina inca,* Inca Dove
*Columbina passerina,* Common Ground-Dove
*Columbina talpacoti,* Ruddy Ground-Dove
*Leptotila verreauxi,* White-tipped Dove
*Geotrygon chrysia,* Key West Quail-Dove
*Geotrygon mystacea,* Bridled Quail-Dove
*Geotrygon montana,* Ruddy Quail-Dove
*Gallicolumba xanthonura,* White-throated Ground-Dove
*Gallicolumba stairi,* Friendly Ground-Dove
*Ptilinopus perousii,* Many-colored Fruit-Dove
*Ptilinopus porphyraceus,* Crimson-crowned Fruit-Dove
*Ptilinopus roseicapilla,* Mariana Fruit-Dove
*Ducula pacifica,* Pacific Imperial-Pigeon
Order CUCULIFORMES
Family CUCULIDAE
Subfamily CUCULINAE
*Cuculus fugax,* Hodgson's Hawk-Cuckoo
*Cuculus canorus,* Common Cuckoo
*Cuculus optatus,* Oriental Cuckoo
*Coccyzus americanus,* Yellow-billed Cuckoo
*Coccyzus minor,* Mangrove Cuckoo
*Coccyzus erythropthalmus,* Black-billed Cuckoo
*Coccyzus vieilloti,* Puerto Rican Lizard-Cuckoo

Subfamily NEOMORPHINAE
*Geococcyx californianus,* Greater Roadrunner
Subfamily CROTOPHAGINAE
*Crotophaga ani,* Smooth-billed Ani
*Crotophaga sulcirostris,* Groove-billed Ani
Order STRIGIFORMES
Family TYTONIDAE
*Tyto alba,* Barn Owl
Family STRIGIDAE
*Otus flammeolus,* Flammulated Owl
*Otus sunia,* Oriental Scops-Owl
*Megascops kennicottii,* Western Screech-Owl
*Megascops asio,* Eastern Screech-Owl
*Megascops trichopsis,* Whiskered Screech-Owl
*Megascops nudipes,* Puerto Rican Screech-Owl
*Bubo virginianus,* Great Horned Owl
*Bubo scandiacus,* Snowy Owl
*Surnia ulula,* Northern Hawk Owl
*Glaucidium gnoma,* Northern Pygmy-Owl
*Glaucidium brasilianum,* Ferruginous Pygmy-Owl
*Micrathene whitneyi,* Elf Owl
*Athene cunicularia,* Burrowing Owl
*Ciccaba virgata,* Mottled Owl
*Strix occidentalis,* Spotted Owl
*Strix varia,* Barred Owl
*Strix nebulosa,* Great Gray Owl
*Asio otus,* Long-eared Owl
*Asio stygius,* Stygian Owl
*Asio flammeus,* Short-eared Owl
*Aegolius funereus,* Boreal Owl
*Aegolius acadicus,* Northern Saw-whet Owl
*Ninox scutulata,* Brown Hawk-Owl
Order CAPRIMULGIFORMES
Family CAPRIMULGIDAE
Subfamily CHORDEILINAE
*Chordeiles acutipennis,* Lesser Nighthawk
*Chordeiles minor,* Common Nighthawk
*Chordeiles gundlachii,* Antillean Nighthawk
Subfamily CAPRIMULGINAE
*Nyctidromus albicollis,* Common Pauraque
*Phalaenoptilus nuttallii,* Common Poorwill
*Caprimulgus carolinensis,* Chuck-will's-widow
*Caprimulgus ridgwayi,* Buff-collared Nightjar
*Caprimulgus vociferus,* Eastern Whip-poor-will
*Caprimulgus arizonae,* Mexican Whip-poor-will
*Caprimulgus noctitherus,* Puerto Rican Nightjar
*Caprimulgus indicus,* Gray Nightjar
Order APODIFORMES
Family APODIDAE
Subfamily CYPSELOIDINAE
*Cypseloides niger,* Black Swift
*Streptoprocne zonaris,* White-collared Swift
Subfamily CHAETURINAE
*Chaetura pelagica,* Chimney Swift
*Chaetura vauxi,* Vaux's Swift
*Chaetura brachyura,* Short-tailed Swift
*Hirundapus caudacutus,* White-throated Needletail
*Aerodramus spodiopygius,* White-rumped Swiftlet
*Aerodramus bartschi,* Mariana Swiftlet
Subfamily APODINAE
*Apus apus,* Common Swift
*Apus pacificus,* Fork-tailed Swift
*Apus melba,* Alpine Swift
*Aeronautes saxatalis,* White-throated Swift
*Tachornis phoenicobia,* Antillean Palm-Swift
Family TROCHILIDAE
Subfamily TROCHILINAE
*Colibri thalassinus,* Green Violetear
*Anthracothorax prevostii,* Green-breasted Mango
*Anthracothorax dominicus,* Antillean Mango
*Anthracothorax viridis,* Green Mango
*Eulampis jugularis,* Purple-throated Carib
*Eulampis holosericeus,* Green-throated Carib
*Orthorhyncus cristatus,* Antillean Crested Hummingbird
*Chlorostilbon maugaeus,* Puerto Rican Emerald
*Cynanthus latirostris,* Broad-billed Hummingbird
*Hylocharis leucotis,* White-eared Hummingbird
*Hylocharis xantusii,* Xantus's Hummingbird
*Amazilia beryllina,* Berylline Hummingbird
*Amazilia yucatanensis,* Buff-bellied Hummingbird
*Amazilia rutila,* Cinnamon Hummingbird
*Amazilia violiceps,* Violet-crowned Hummingbird
*Lampornis clemenciae,* Blue-throated Hummingbird
*Eugenes fulgens,* Magnificent Hummingbird
*Heliomaster constantii,* Plain-capped Starthroat
*Calliphlox evelynae,* Bahama Woodstar
*Calothorax lucifer,* Lucifer Hummingbird
*Archilochus colubris,* Ruby-throated Hummingbird
*Archilochus alexandri,* Black-chinned Hummingbird
*Calypte anna,* Anna's Hummingbird
*Calypte costae,* Costa's Hummingbird
*Stellula calliope,* Calliope Hummingbird
*Atthis heloisa,* Bumblebee Hummingbird
*Selasphorus platycercus,* Broad-tailed Hummingbird
*Selasphorus rufus,* Rufous Hummingbird
*Selasphorus sasin,* Allen's Hummingbird
Order TROGONIFORMES
Family TROGONIDAE
Subfamily TROGONINAE
*Trogon elegans,* Elegant Trogon
*Euptilotis neoxenus,* Eared Quetzel
Order UPUPIFORMES
Family UPUPIDAE
*Upupa epops,* Eurasian Hoopoe
Order CORACIIFORMES
Family ALCEDINIDAE
Subfamily HALCYONINAE
*Todirhamphus cinnamominus,* Micronesian Kingfisher
*Todirhamphus chloris,* Collared Kingfisher
Subfamily CERYLINAE
*Megaceryle torquata,* Ringed Kingfisher
*Megaceryle alcyon,* Belted Kingfisher
*Chloroceryle americana,* Green Kingfisher
Order PICIFORMES
Family PICIDAE
Subfamily JYNGINAE
*Jynx torquilla,* Eurasian Wryneck
Subfamily PICINAE
*Melanerpes lewis,* Lewis's Woodpecker
*Melanerpes portoricensis,* Puerto Rican Woodpecker
*Melanerpes erythrocephalus,* Red-headed Woodpecker
*Melanerpes formicivorus,* Acorn Woodpecker
*Melanerpes uropygialis,* Gila Woodpecker
*Melanerpes aurifrons,* Golden-fronted Woodpecker
*Melanerpes carolinus,* Red-bellied Woodpecker
*Sphyrapicus thyroideus,* Williamson's Sapsucker
*Sphyrapicus varius,* Yellow-bellied Sapsucker
*Sphyrapicus nuchalis,* Red-naped Sapsucker
*Sphyrapicus ruber,* Red-breasted Sapsucker
*Dendrocopos major,* Great Spotted Woodpecker
*Picoides scalaris,* Ladder-backed Woodpecker
*Picoides nuttallii,* Nuttall's Woodpecker
*Picoides pubescens,* Downy Woodpecker
*Picoides villosus,* Hairy Woodpecker
*Picoides arizonae,* Arizona Woodpecker
*Picoides borealis,* Red-cockaded Woodpecker

*Picoides albolarvatus,* White-headed Woodpecker
*Picoides dorsalis,* American Three-toed Woodpecker
*Picoides arcticus,* Black-backed Woodpecker
*Colaptes auratus,* Northern Flicker
*Colaptes chrysoides,* Gilded Flicker
*Dryocopus pileatus,* Pileated Woodpecker
*Campephilus principalis,* Ivory-billed Woodpecker
Order PASSERIFORMES
Family TYRANNIDAE
Subfamily ELAENIINAE
*Camptostoma imberbe,* Northern Beardless-Tyrannulet
*Myiopagis viridicata,* Greenish Elaenia
*Elaenia martinica,* Caribbean Elaenia
*Elaenia albiceps,* White-crested Eleania
Subfamily FLUVICOLINAE
*Mitrephanes phaeocercus,* Tufted Flycatcher
*Contopus cooperi,* Olive-sided Flycatcher
*Contopus pertinax,* Greater Pewee
*Contopus sordidulus,* Western Wood-Pewee
*Contopus virens,* Eastern Wood-Pewee
*Contopus caribaeus,* Cuban Pewee
*Contopus hispaniolensis,* Hispaniolan Pewee
*Contopus latirostris,* Lesser Antillean Pewee
*Empidonax flaviventris,* Yellow-bellied Flycatcher
*Empidonax virescens,* Acadian Flycatcher
*Empidonax alnorum,* Alder Flycatcher
*Empidonax traillii,* Willow Flycatcher
*Empidonax minimus,* Least Flycatcher
*Empidonax hammondii,* Hammond's Flycatcher
*Empidonax wrightii,* Gray Flycatcher
*Empidonax oberholseri,* Dusky Flycatcher
*Empidonax difficilis,* Pacific-slope Flycatcher
*Empidonax occidentalis,* Cordilleran Flycatcher
*Empidonax fulvifrons,* Buff-breasted Flycatcher
*Sayornis nigricans,* Black Phoebe
*Sayornis phoebe,* Eastern Phoebe
*Sayornis saya,* Say's Phoebe
*Pyrocephalus rubinus,* Vermilion Flycatcher
Subfamily TYRANNINAE
*Myiarchus tuberculifer,* Dusky-capped Flycatcher
*Myiarchus cinerascens,* Ash-throated Flycatcher
*Myiarchus nuttingi,* Nutting's Flycatcher
*Myiarchus crinitus,* Great Crested Flycatcher
*Myiarchus tyrannulus,* Brown-crested Flycatcher
*Myiarchus sagrae,* La Sagra's Flycatcher
*Myiarchus antillarum,* Puerto Rican Flycatcher
*Pitangus sulphuratus,* Great Kiskadee
*Myiozetetes similis,* Social Flycatcher
*Myiodynastes luteiventris,* Sulphur-bellied Flycatcher
*Legatus leucophalus,* Piratic Flycatcher
*Empidonomus varius,* Variegated Flycatcher
*Empidonomus aurantioatrocristatus,* Crowned Slaty Flycatcher
*Tyrannus melancholicus,* Tropical Kingbird
*Tyrannus couchii,* Couch's Kingbird
*Tyrannus vociferans,* Cassin's Kingbird
*Tyrannus crassirostris,* Thick-billed Kingbird
*Tyrannus verticalis,* Western Kingbird
*Tyrannus tyrannus,* Eastern Kingbird
*Tyrannus dominicensis,* Gray Kingbird
*Tyrannus caudifasciatus,* Loggerhead Kingbird
*Tyrannus forficatus,* Scissor-tailed Flycatcher
*Tyrannus savana,* Fork-tailed Flycatcher
*Pachyramphus aglaiae,* Rose-throated Becard
*Tityra semifasciata,* Masked Tityra
Family LANIIDAE
*Lanius cristatus,* Brown Shrike
*Lanius ludovicianus,* Loggerhead Shrike
*Lanius excubitor,* Northern Shrike
Family VIREONIDAE
*Vireo griseus,* White-eyed Vireo
*Vireo crassirostris,* Thick-billed Vireo
*Vireo latimeri,* Puerto Rican Vireo
*Vireo bellii,* Bell's Vireo
*Vireo atricapilla,* Black-capped Vireo
*Vireo vicinior,* Gray Vireo
*Vireo flavifrons,* Yellow-throated Vireo
*Vireo plumbeus,* Plumbeous Vireo
*Vireo cassinii,* Cassin's Vireo
*Vireo solitarius,* Blue-headed Vireo
*Vireo huttoni,* Hutton's Vireo
*Vireo gilvus,* Warbling Vireo
*Vireo philadelphicus,* Philadelphia Vireo
*Vireo olivaceus,* Red-eyed Vireo
*Vireo flavoviridis,* Yellow-green Vireo
*Vireo altiloquus,* Black-whiskered Vireo
*Vireo magister,* Yucatan Vireo
Family CORVIDAE
*Perisoreus canadensis,* Gray Jay
*Psilorhinus morio,* Brown Jay
*Cyanocorax yncas,* Green Jay
*Gymnorhinus cyanocephalus,* Pinyon Jay
*Cyanocitta stelleri,* Steller's Jay
*Cyanocitta cristata,* Blue Jay
*Aphelocoma coerulescens,* Florida Scrub-Jay
*Aphelocoma insularis,* Island Scrub-Jay
*Aphelocoma californica,* Western Scrub-Jay
*Aphelocoma ultramarina,* Mexican Jay
*Nucifraga columbiana,* Clark's Nutcracker
*Pica hudsonia,* Black-billed Magpie
*Pica nuttalli,* Yellow-billed Magpie
*Corvus kubaryi,* Mariana Crow
*Corvus brachyrhynchos,* American Crow
*Corvus caurinus,* Northwestern Crow
*Corvus leucognaphalus,* White-necked Crow
*Corvus imparatus,* Tamaulipas Crow
*Corvus ossifragus,* Fish Crow
*Corvus hawaiiensis,* Hawaiian Crow
*Corvus cryptoleucus,* Chihuahuan Raven
*Corvus corax,* Common Raven
Family ALAUDIDAE
*Alauda arvensis,* Sky Lark
*Eremophila alpestris,* Horned Lark
Family HIRUNDINIDAE
Subfamily HIRUNDININAE
*Progne subis,* Purple Martin
*Progne cryptoleuca,* Cuban Martin
*Progne dominicensis,* Caribbean Martin
*Progne chalybea,* Gray-breasted Martin
*Progne elegans,* Southern Martin
*Progne tapera,* Brown-chested Martin
*Tachycineta bicolor,* Tree Swallow
*Tachycineta albilinea,* Mangrove Swallow
*Tachycineta thalassina,* Violet-green Swallow
*Tachycineta cyaneoviridis,* Bahama Swallow
*Stelgidopteryx serripennis,* Northern Rough-winged Swallow
*Riparia riparia,* Bank Swallow
*Petrochelidon pyrrhonota,* Cliff Swallow
*Petrochelidon fulva,* Cave Swallow
*Hirundo rustica,* Barn Swallow
*Delichon urbicum,* Common House-Martin
Family PARIDAE
*Poecile carolinensis,* Carolina Chickadee
*Poecile atricapillus,* Black-capped Chickadee
*Poecile gambeli,* Mountain Chickadee
*Poecile sclateri,* Mexican Chickadee
*Poecile rufescens,* Chestnut-backed Chickadee
*Poecile hudsonicus,* Boreal Chickadee
*Poecile cinctus,* Gray-headed Chickadee
*Baeolophus wollweberi,* Bridled Titmouse

*Baeolophus inornatus,* Oak Titmouse
*Baeolophus ridgwayi,* Juniper Titmouse
*Baeolophus bicolor,* Tufted Titmouse
*Baeolophus atricristatus,* Black-crested Titmouse
Family REMIZIDAE
*Auriparus flaviceps,* Verdin
Family AEGITHALIDAE
*Psaltriparus minimus,* Bushtit
Family SITTIDAE
Subfamily SITTINAE
*Sitta canadensis,* Red-breasted Nuthatch
*Sitta carolinensis,* White-breasted Nuthatch
*Sitta pygmaea,* Pygmy Nuthatch
*Sitta pusilla,* Brown-headed Nuthatch
Family CERTHIIDAE
Subfamily CERTHIINAE
*Certhia americana,* Brown Creeper
Family TROGLODYTIDAE
*Campylorhynchus brunneicapillus,* Cactus Wren
*Salpinctes obsoletus,* Rock Wren
*Catherpes mexicanus,* Canyon Wren
*Thryothorus sinaloa,* Sinaloa Wren
*Thryothorus ludovicianus,* Carolina Wren
*Thryomanes bewickii,* Bewick's Wren
*Troglodytes aedon,* House Wren
*Troglodytes pacificus,* Pacific Wren
*Troglodytes hiemalis,* Winter Wren
*Cistothorus platensis,* Sedge Wren
*Cistothorus palustris,* Marsh Wren
Family POLIOPTILIDAE
*Polioptila caerulea,* Blue-gray Gnatcatcher
*Polioptila californica,* California Gnatcatcher
*Polioptila melanura,* Black-tailed Gnatcatcher
*Polioptila nigriceps,* Black-capped Gnatcatcher
Family CINCLIDAE
*Cinclus mexicanus,* American Dipper
Family REGULIDAE
*Regulus satrapa,* Golden-crowned Kinglet
*Regulus calendula,* Ruby-crowned Kinglet
Family PHYLLOSCOPIDAE
*Phylloscopus trochilus,* Willow Warbler
*Phylloscopus sibilatrix,* Wood Warbler
*Phylloscopus fuscatus,* Dusky Warbler
*Phylloscopus proregulus,* Pallas's Leaf-Warbler
*Phylloscopus inornatus,* Yellow-browed Warbler
*Phylloscopus borealis,* Arctic Warbler
Family SYLVIIDAE
*Sylvia curruca,* Lesser Whitethroat
*Chamaea fasciata,* Wrentit
Family ACROCEPHALIDAE
*Acrocephalus luscinia,* Nightingale Reed-Warbler
*Acrocephalus familiaris,* Millerbird
*Acrocephalus schoenobaenus,* Sedge Warbler
Family MEGALURIDAE
*Locustella ochotensis,* Middendorff's Grasshopper-Warbler
*Locustella lanceolata,* Lanceolated Warbler
Family MUSCICAPIDAE
*Ficedula narcissina,* Narcissus Flycatcher
*Ficedula mugimaki,* Mugimaki Flycatcher
*Ficedula albicilla,* Taiga Flycatcher
*Muscicapa sibirica,* Dark-sided Flycatcher
*Muscicapa griseisticta,* Gray-streaked Flycatcher
*Muscicapa dauurica,* Asian Brown Flycatcher
*Muscicapa striata,* Spotted Flycatcher
Family TURDIDAE
*Monticola solitarius,* Blue Rock-Thrush
*Luscinia sibilans,* Rufous-tailed Robin
*Luscinia calliope,* Siberian Rubythroat
*Luscinia svecica,* Bluethroat
*Luscinia cyane,* Siberian Blue Robin
*Tarsiger cyanurus,* Red-flanked Bluetail
*Oenanthe oenanthe,* Northern Wheatear
*Saxicola torquatus,* Stonechat
*Sialia sialis,* Eastern Bluebird
*Sialia mexicana,* Western Bluebird
*Sialia currucoides,* Mountain Bluebird
*Myadestes townsendi,* Townsend's Solitaire
*Myadestes myadestinus,* Kamao
*Myadestes lanaiensis,* Olomao
*Myadestes obscurus,* Omao
*Myadestes palmeri,* Puaiohi
*Catharus aurantiirostris,* Orange-billed Nightingale-Thrush
*Catharus mexicanus,* Black-headed Nightingale-Thrush
*Catharus fuscescens,* Veery
*Catharus minimus,* Gray-cheeked Thrush
*Catharus bicknelli,* Bicknell's Thrush
*Catharus ustulatus,* Swainson's Thrush
*Catharus guttatus,* Hermit Thrush
*Hylocichla mustelina,* Wood Thrush
*Turdus obscurus,* Eyebrowed Thrush
*Turdus naumanni,* Dusky Thrush
*Turdus pilaris,* Fieldfare
*Turdus grayi,* Clay-colored Thrush
*Turdus assimilis,* White-throated Thrush
*Turdus rufopalliatus,* Rufous-backed Robin
*Turdus migratorius,* American Robin
*Turdus plumbeus,* Red-legged Thrush
*Ixoreus naevius,* Varied Thrush
*Ridgwayia pinicola,* Aztec Thrush
Family MIMIDAE
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*Melanoptila glabrirostris,* Black Catbird
*Mimus polyglottos,* Northern Mockingbird
*Mimus gundlachii,* Bahama Mockingbird
*Oreoscoptes montanus,* Sage Thrasher
*Toxostoma rufum,* Brown Thrasher
*Toxostoma longirostre,* Long-billed Thrasher
*Toxostoma bendirei,* Bendire's Thrasher
*Toxostoma curvirostre,* Curve-billed Thrasher
*Toxostoma redivivum,* California Thrasher
*Toxostoma crissale,* Crissal Thrasher
*Toxostoma lecontei,* Le Conte's Thrasher
*Melanotis caerulescens,* Blue Mockingbird
*Margarops fuscatus,* Pearly-eyed Thrasher
Family STURNIDAE
*Sturnus philippensis,* Chestnut-cheeked Starling
*Sturnus cineraceus,* White-cheeked Starling
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*Prunella montanella,* Siberian Accentor
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*Motacilla citreola,* Citrine Wagtail
*Motacilla cinerea,* Gray Wagtail
*Motacilla alba,* White Wagtail
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*Anthus hodgsoni,* Olive-backed Pipit
*Anthus gustavi,* Pechora Pipit
*Anthus cervinus,* Red-throated Pipit
*Anthus rubescens,* American Pipit
*Anthus spragueii,* Sprague's Pipit
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*Bombycilla garrulus,* Bohemian Waxwing
*Bombycilla cedrorum,* Cedar Waxwing
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*Ptilogonys cinereus,* Gray Silky-flycatcher
*Phainopepla nitens,* Phainopepla
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*Peucedramus taeniatus,* Olive Warbler
Family CALCARIIDAE
*Calcarius lapponicus,* Lapland Longspur
*Calcarius ornatus,* Chestnut-collared Longspur
*Calcarius pictus,* Smith's Longspur
*Rhynchophanes mccownii,* McCown's Longspur
*Plectrophenax nivalis,* Snow Bunting
*Plectrophenax hyperboreus,* McKay's Bunting
Family PARULIDAE
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*Vermivora cyanoptera,* Blue-winged

Warbler
*Vermivora chrysoptera,* Golden-winged Warbler
*Oreothlypis peregrina,* Tennessee Warbler
*Oreothlypis celata,* Orange-crowned Warbler
*Oreothlypis ruficapilla,* Nashville Warbler
*Oreothlypis virginiae,* Virginia's Warbler
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*Oreothlypis luciae,* Lucy's Warbler
*Oreothlypis superciliosa,* Crescent-chested Warbler
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*Dendroica magnolia,* Magnolia Warbler
*Dendroica tigrina,* Cape May Warbler
*Dendroica caerulescens,* Black-throated Blue Warbler
*Dendroica coronata,* Yellow-rumped Warbler
*Dendroica nigrescens,* Black-throated Gray Warbler
*Dendroica chrysoparia,* Golden-cheeked Warbler
*Dendroica virens,* Black-throated Green Warbler
*Dendroica townsendi,* Townsend's Warbler
*Dendroica occidentalis,* Hermit Warbler
*Dendroica fusca,* Blackburnian Warbler
*Dendroica dominica,* Yellow-throated Warbler
*Dendroica graciae,* Grace's Warbler
*Dendroica adelaidae,* Adelaide's Warbler
*Dendroica pinus,* Pine Warbler
*Dendroica kirtlandii,* Kirtland's Warbler
*Dendroica discolor,* Prairie Warbler
*Dendroica palmarum,* Palm Warbler
*Dendroica castanea,* Bay-breasted Warbler
*Dendroica striata,* Blackpoll Warbler
*Dendroica cerulea,* Cerulean Warbler
*Dendroica angelae,* Elfin-woods Warbler
*Mniotilta varia,* Black-and-white Warbler
*Setophaga ruticilla,* American Redstart
*Protonotaria citrea,* Prothonotary Warbler
*Helmitheros vermivorum,* Worm-eating Warbler
*Limnothlypis swainsonii,* Swainson's Warbler
*Seiurus aurocapilla,* Ovenbird
*Parkesia noveboracensis,* Northern Waterthrush
*Parkesia motacilla,* Louisiana Waterthrush
*Oporornis formosus,* Kentucky Warbler
*Oporornis agilis,* Connecticut Warbler
*Oporornis philadelphia,* Mourning Warbler
*Oporornis tolmiei,* MacGillivray's Warbler
*Geothlypis trichas,* Common Yellowthroat
*Geothlypis poliocephala,* Gray-crowned Yellowthroat
*Wilsonia citrina,* Hooded Warbler
*Wilsonia pusilla,* Wilson's Warbler
*Wilsonia canadensis,* Canada Warbler
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*Myioborus pictus,* Painted Redstart
*Myioborus miniatus,* Slate-throated Redstart
*Euthlypis lachrymosa,* Fan-tailed Warbler
*Basileuterus culicivorus,* Golden-crowned Warbler
*Basileuterus rufifrons,* Rufous-capped Warbler
*Icteria virens,* Yellow-breasted Chat
Family THRAUPIDAE
*Nesospingus speculiferus,* Puerto Rican Tanager
*Spindalis zena,* Western Spindalis
*Spindalis portoricensis,* Puerto Rican Spindalis
Family EMBERIZIDAE
*Sporophila torqueola,* White-collared Seedeater
*Tiaris olivaceus,* Yellow-faced Grassquit
*Tiaris bicolor,* Black-faced Grassquit
*Loxigilla portoricensis,* Puerto Rican Bullfinch
*Arremonops rufivirgatus,* Olive Sparrow
*Pipilo chlorurus,* Green-tailed Towhee
*Pipilo maculatus,* Spotted Towhee
*Pipilo erythrophthalmus,* Eastern Towhee
*Aimophila ruficeps,* Rufous-crowned Sparrow
*Melozone fusca,* Canyon Towhee
*Melozone crissalis,* California Towhee
*Melozone aberti,* Abert's Towhee
*Peucaea carpalis,* Rufous-winged Sparrow
*Peucaea botterii,* Botteri's Sparrow
*Peucaea cassinii,* Cassin's Sparrow
*Peucaea aestivalis,* Bachman's Sparrow
*Spizella arborea,* American Tree Sparrow
*Spizella passerina,* Chipping Sparrow
*Spizella pallida,* Clay-colored Sparrow
*Spizella breweri,* Brewer's Sparrow
*Spizella pusilla,* Field Sparrow
*Spizella wortheni,* Worthen's Sparrow
*Spizella atrogularis,* Black-chinned Sparrow
*Pooecetes gramineus,* Vesper Sparrow
*Chondestes grammacus,* Lark Sparrow
*Amphispiza quinquestriata,* Five-striped Sparrow
*Amphispiza bilineata,* Black-throated Sparrow
*Amphispiza belli,* Sage Sparrow
*Calamospiza melanocorys,* Lark Bunting
*Passerculus sandwichensis,* Savannah Sparrow
*Ammodramus savannarum,* Grasshopper Sparrow
*Ammodramus bairdii,* Baird's Sparrow
*Ammodramus henslowii,* Henslow's Sparrow
*Ammodramus leconteii,* Le Conte's Sparrow
*Ammodramus nelsoni,* Nelson's Sparrow
*Ammodramus caudacutus,* Saltmarsh Sparrow
*Ammodramus maritimus,* Seaside Sparrow
*Passerella iliaca,* Fox Sparrow
*Melospiza melodia,* Song Sparrow
*Melospiza lincolnii,* Lincoln's Sparrow
*Melospiza georgiana,* Swamp Sparrow
*Zonotrichia albicollis,* White-throated Sparrow
*Zonotrichia querula,* Harris's Sparrow
*Zonotrichia leucophrys,* White-crowned Sparrow
*Zonotrichia atricapilla,* Golden-crowned Sparrow
*Junco hyemalis,* Dark-eyed Junco
*Junco phaeonotus,* Yellow-eyed Junco
*Emberiza leucocephalos,* Pine Bunting
*Emberiza chrysophrys,* Yellow-browed Bunting
*Emberiza pusilla,* Little Bunting
*Emberiza rustica,* Rustic Bunting
*Emberiza elegans,* Yellow-throated Bunting
*Emberiza aureola,* Yellow-breasted Bunting
*Emberiza variabilis,* Gray Bunting
*Emberiza pallasi,* Pallas's Bunting
*Emberiza schoeniclus,* Reed Bunting
Family CARDINALIDAE
*Piranga flava,* Hepatic Tanager
*Piranga rubra,* Summer Tanager
*Piranga olivacea,* Scarlet Tanager
*Piranga ludoviciana,* Western Tanager
*Piranga bidentata,* Flame-colored Tanager
*Rhodothraupis celaeno,* Crimson-collared Grosbeak
*Cardinalis cardinalis,* Northern Cardinal
*Cardinalis sinuatus,* Pyrrhuloxia
*Pheucticus chrysopeplus,* Yellow Grosbeak
*Pheucticus ludovicianus,* Rose-breasted Grosbeak
*Pheucticus melanocephalus,* Black-headed Grosbeak

*Cyanocompsa parellina,* Blue Bunting
*Passerina caerulea,* Blue Grosbeak
*Passerina amoena,* Lazuli Bunting
*Passerina cyanea,* Indigo Bunting
*Passerina versicolor,* Varied Bunting
*Passerina ciris,* Painted Bunting
*Spiza americana,* Dickcissel
Family ICTERIDAE
*Dolichonyx oryzivorus,* Bobolink
*Agelaius phoeniceus,* Red-winged Blackbird
*Agelaius tricolor,* Tricolored Blackbird
*Agelaius humeralis,* Tawny-shouldered Blackbird
*Agelaius xanthomus,* Yellow-shouldered Blackbird
*Sturnella magna,* Eastern Meadowlark
*Sturnella neglecta,* Western Meadowlark
*Xanthocephalus xanthocephalus,* Yellow-headed Blackbird
*Euphagus carolinus,* Rusty Blackbird
*Euphagus cyanocephalus,* Brewer's Blackbird
*Quiscalus quiscula,* Common Grackle
*Quiscalus major,* Boat-tailed Grackle
*Quiscalus mexicanus,* Great-tailed Grackle
*Quiscalus niger,* Greater Antillean Grackle
*Molothrus bonariensis,* Shiny Cowbird
*Molothrus aeneus,* Bronzed Cowbird
*Molothrus ater,* Brown-headed Cowbird
*Icterus portoricensis,* Puerto Rican Oriole
*Icterus wagleri,* Black-vented Oriole
*Icterus spurius,* Orchard Oriole
*Icterus cucullatus,* Hooded Oriole
*Icterus pustulatus,* Streak-backed Oriole
*Icterus bullockii,* Bullock's Oriole
*Icterus gularis,* Altamira Oriole
*Icterus graduacauda,* Audubon's Oriole
*Icterus galbula,* Baltimore Oriole
*Icterus parisorum,* Scott's Oriole
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Subfamily FRINGILLINAE
*Fringilla coelebs,* Common Chaffinch
*Fringilla montifringilla,* Brambling
Subfamily EUPHONIINAE
*Euphonia musica,* Antillean Euphonia
Subfamily CARDUELINAE
*Leucosticte tephrocotis,* Gray-crowned Rosy-Finch
*Leucosticte atrata,* Black Rosy-Finch
*Leucosticte australis,* Brown-capped Rosy-Finch
*Pinicola enucleator,* Pine Grosbeak
*Carpodacus erythrinus,* Common Rosefinch
*Carpodacus purpureus,* Purple Finch
*Carpodacus cassinii,* Cassin's Finch
*Carpodacus mexicanus,* House Finch
*Loxia curvirostra,* Red Crossbill
*Loxia leucoptera,* White-winged Crossbill
*Acanthis flammea,* Common Redpoll
*Acanthis hornemanni,* Hoary Redpoll
*Spinus spinus,* Eurasian Siskin
*Spinus pinus,* Pine Siskin
*Spinus psaltria,* Lesser Goldfinch
*Spinus lawrencei,* Lawrence's Goldfinch
*Spinus tristis,* American Goldfinch
*Chloris sinica,* Oriental Greenfinch
*Pyrrhula pyrrhula,* Eurasian Bullfinch
*Coccothraustes vespertinus,* Evening Grosbeak
*Coccothraustes coccothraustes,* Hawfinch
Subfamily DREPANIDINAE
*Telespiza cantans,* Laysan Finch
*Telespiza ultima,* Nihoa Finch
*Psittirostra psittacea,* Ou
*Loxioides bailleui,* Palila
*Pseudonestor xanthophrys,* Maui Parrotbill
*Hemignathus virens,* Hawaii Amakihi
*Hemignathus flavus,* Oahu Amakihi
*Hemignathus kauaiensis,* Kauai Amakihi
*Hemignathus ellisianus,* Greater Akialoa
*Hemignathus lucidus,* Nukupuu
*Hemignathus munroi,* Akiapolaau
*Magumma parva,* Anianiau
*Oreomystis bairdi,* Akikiki
*Oreomystis mana,* Hawaii Creeper
*Paroreomyza maculata,* Oahu Alauahio
*Paroreomyza flammea,* Kakawahie
*Paroreomyza montana,* Maui Alauahio
*Loxops caeruleirostris,* Akekee
*Loxops coccineus,* Akepa
*Vestiaria coccinea,* Iiwi
*Palmeria dolei,* Akohekohe
*Himatione sanguinea,* Apapane
*Melamprosops phaeosoma,* Poo-uli

## PART 21—[AMENDED]

■ 3. Revise the authority citation for part 21 to read as follows:

**Authority:** Pub. L. 65–186, 40 Stat. 755 (1918) (16 U.S.C. 703–712), as amended.

### § 21.3 [Amended]

■ 4. In § 21.3, amend the definition of ''Raptor'' by adding the words ''the Order Accipitriformes,'' immediately before the words ''the Order Falconiformes'' and adding a comma after ''Falconiformes''.

Dated: September 17, 2013.

**Michael J. Bean,**

*Acting Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 2013–26061 Filed 10–31–13; 8:45 am]

BILLING CODE 4310–55–P

# FEDERAL REGISTER

Vol. 78 Friday,

No. 212 November 1, 2013


Part IV

## The President

Notice of October 30, 2013—Continuation of the National Emergency With Respect to Sudan

Federal Register
Vol. 78, No. 212
Friday, November 1, 2013

# Presidential Documents

**Title 3—**

## The President

**Notice of October 30, 2013**

## Continuation of the National Emergency With Respect to Sudan

On November 3, 1997, by Executive Order 13067, the President declared a national emergency with respect to Sudan and, pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706), took related steps to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States posed by the actions and policies of the Government of Sudan. On April 26, 2006, in Executive Order 13400, the President determined that the conflict in Sudan's Darfur region posed an unusual and extraordinary threat to the national security and foreign policy of the United States, expanded the scope of the national emergency to deal with that threat, and ordered the blocking of property of certain persons connected to the conflict. On October 13, 2006, the President issued Executive Order 13412 to take additional steps with respect to the national emergency and to implement the Darfur Peace and Accountability Act of 2006 (Public Law 109–344).

Because the actions and policies of the Government of Sudan continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States, the national emergency declared on November 3, 1997, as expanded on April 26, 2006, and with respect to which additional steps were taken on October 13, 2006, must continue in effect beyond November 3, 2013. Therefore, consistent with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency with respect to Sudan.

This notice shall be published in the *Federal Register* and transmitted to the Congress.

THE WHITE HOUSE,
*October 30, 2013.*

[FR Doc. 2013–26413
Filed 10–31–13; 11:15 am]
Billing code 3295–F4

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**Federal Register**

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**Last List October 18, 2013**

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