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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1145

[Doc. No. AMS–DA–14–0018]

Extension of Dairy Forward Pricing Program

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule extends the Dairy Forward Pricing Program in accordance with the Agricultural Act of 2014 (2014 Farm Bill). The Dairy Forward Pricing Program was first authorized in section 1502 of the Food, Conservation and Energy Act of 2008. The program allows handlers regulated under the Federal milk marketing order program to pay producers and cooperative associations in accordance with the terms of a forward contract and not have to pay the minimum Federal order uniform price for milk. Establishing new contracts under the Dairy Forward Pricing Program has been prohibited since the expiration of the program on September 30, 2013. The 2014 Farm Bill (H.R. 2642) was signed into law on February 7, 2014, and extends the program to allow new contracts to be entered into until September 30, 2018. Any forward contract entered into up and until the September 30, 2018, deadline is subject to a September 30, 2021, expiration date to meet the terms of the contract.

DATES: Effective March 24, 2014.

FOR FURTHER INFORMATION CONTACT: Roger Cryan, Director, Economics Division, USDA/AMS/Dairy Programs, Stop 0229—Room 2753–S, 1400 Independence Avenue SW., Washington, DC 20250–0231, (202) 720–7091, email address: *roger.cryan@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: This final rule extends the Dairy Forward Pricing Program (DFPP) in accordance with the 2014 Farm Bill. The 2008 Food, Conservation and Energy Act (2008 Farm Bill) (Pub. L. 110–246) initially established the DFPP, which prohibited new forward contracts from being entered into after September 30, 2012, and no forward contracts entered into under the program extending beyond September 30, 2015 (7 U.S.C. 8772(e)). Passage of the ''American Taxpayer Relief Act of 2012,'' (ATRA) (Pub. L. 112–240), signed into law on January 2, 2013, revised the program to allow new contracts to be entered into until September 30, 2013. New contracts have been prohibited since then.

The DFPP (7 U.S.C. 8772, 7 CFR 1145) allows handlers, under the Agricultural Marketing Agreement Act of 1937, (AMAA) (7 U.S.C. 601–612), to pay producers or cooperative associations of producers a negotiated price, rather than the Federal order minimum blend price for producer milk if subject to conditions and terms of a forward contract, provided the volume of such milk does not exceed the handler's Class II, III, and IV utilization for the month on the order that regulates the milk. The program applies to producer milk regulated under Federal milk marketing orders that is not classified as Class I milk or milk otherwise intended for fluid use and that is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects interstate or foreign commerce of Federally regulated milk. The Federal milk marketing order program consists of 10 Federal milk marketing orders (7 CFR parts 1001–1135).

This document provides notice that producers and cooperative associations of producers may now enter into forward price contracts under the DFPP through September 30, 2018, and that all terms of the forward contract must expire prior to September 30, 2021. All other provisions and requirements of the program as provided for in the final rule published October 31, 2008 (73 FR 64868) are still in effect.

Discussion of Rules Applicable to Program

Section 1502 of the 2008 Farm Bill required the Secretary of Agriculture to establish a Dairy Forward Pricing Program. Authorization for this program expired on September 30, 2013, under the provisions of the ATRA. The DFPP allows a handler to forward contract for an amount of milk up to the volume of Class II, III, and IV milk pooled on the order by the handler under the AMAA, as amended, during a month and be exempt from the minimum Federal order blend price provisions for that milk. USDA, including Market Administrator personnel, does not determine the terms of forward contracts or enforce negotiated prices.

For producers who consider forward contracting as a risk-management tool, the ''benchmark'' price for milk is the minimum Federal order blend price that they would receive in the absence of a forward contract. It is reasonable to expect a producer to negotiate a forward contract that would approximate the minimum blend price plus applicable premiums averaged over the forward contract period. Over time, it is reasonable to expect to see forward contract prices paid to producers below the applicable minimum order blend price in some months and above the minimum order blend price in others.

Participation in the dairy forward pricing program is voluntary for dairy farmers, dairy farmer cooperatives, and handlers. Handlers may not require producer participation in a forward pricing program as a condition for accepting milk. A producer or cooperative association may continue to have its milk priced under the minimum payment provisions of the applicable milk order.

Any ''handler'' defined in 7 CFR § 1000.9 is eligible to enter into a forward contract(s) with producers or cooperatives of producers. As defined in that section, ''handler'' includes not only the operator of a pool plant or nonpool plant, but also a broker serving as a handler as provided in § 1000.9(b), a proprietary handler, and a cooperative association acting as a handler with respect to non-member milk delivered to a pool plant or diverted to a nonpool plant. Nothing in this regulation affects any contractual arrangements between a cooperative association and its members.

A handler's combined Class II, III, and IV producer milk utilization is defined in 7 CFR part 1145 as the handler's ''eligible milk.'' In the case of a multi-plant handler, the handler's Class II, III, and IV producer milk utilization will be

combined together for all of the handler's milk regulated under one milk marketing order. A handler will only be exempt from paying the milk marketing order's minimum blend price on its volume of ''eligible milk.'' If a handler enters into forward contracts for more than the eligible milk volume (''over-contract'' milk), the handler must notify the Market Administrator. If the handler fails to notify the Market Administrator of payment adjustments, the Market Administrator will prorate the over-contract milk to each producer and cooperative association having a contract with the handler.

Although handlers participating in the program will not be required to pay producers and cooperative associations the minimum uniform blend or component prices for contract milk, they must continue to account to the pool for all milk they receive at the respective milk marketing order's minimum class prices. In the case of milk received by a transfer from a cooperative association's pool plant, a handler may forward contract for all such transferred milk that is not used in Class I.

In many milk markets, nonpool plants regularly receive pooled milk from milk producers who are not members of a cooperative association. This milk is actually pooled by a pool plant operator or by a cooperative association through its deliveries to a pool plant. The non-member milk delivered to a nonpool plant is reported under the milk marketing order program as producer milk diverted to a nonpool plant by the cooperative association on its monthly report of receipts and utilization to the Market Administrator. Alternatively, if a cooperative association is not involved in the transaction, such milk could be reported by a pool plant operator on its monthly report of receipts and utilization.

Many nonpool plant operators who receive non-member milk that is pooled through another handler issue checks to the nonpool plant's non-member producers. They submit their payrolls showing these payments to the Market Administrator. Nevertheless, these nonpool plant operators are not responsible under the milk marketing order program for paying their non-member producers the minimum Federal milk marketing order price; it is the handler (either the cooperative association or pool plant operator) that pools the milk for such nonpool plants that is responsible for an underpayment under the milk marketing order program.

Accordingly, only producer milk that is subject to forward contracting with a handler in compliance with the DFPP will be exempt from the order's minimum blend price provisions. In the case of non-member milk that is reported as producer milk by a cooperative association handler or pool plant operator, but pay rolled by a nonpool plant operator, the cooperative association or pool plant operator, respectively, will be responsible for any underpayment to a non-member producer in the event that milk under contract becomes subject to minimum milk marketing order pricing (as in the case of over-contract milk). In this way, cooperative association handlers, pool plant operators, and nonpool plant operators may continue the arrangements that have evolved to pool milk under the Federal milk marketing order program and all will be permitted to participate in the forward contracting program.

Any handler participating in the program will continue to file all of the reports that are required under the applicable Federal milk marketing order. This includes reports of receipts and utilization of milk and monthly payroll reports that show all information required by the orders. The notable difference, however, for handlers participating in the DFPP are that they must also provide more detailed accounting in their monthly payroll reports to the Market Administrator and remittance information provided to participating producers (7 CFR 1____.31, 1001.73(e), 1005.73(e), 1006.73(e), 1007.73(e), 1030.73(f), 1032.73(f), 1033.73(e), 1124.73(f), 1126.73(e), 1131.73(e)). In accordance with these provisions, the monthly payroll report of participating handlers is required to contain detailed accounting that distinguishes gross values paid for applicable volumes of contract versus non-contract milk for each producer. Remittance information from participating handlers to participating producers must clearly distinguish gross values and volumes for contract versus non-contract milk. These distinctions avoid any questions concerning compliance with Federal order minimum price requirements for participant milk not under contract.

As with the DFPP, handlers participating in the Federal order program must submit to the Market Administrator a copy of each contract for which it claims exemption from the order's minimum blend pricing provisions. The contract must denote the pricing terms for contract milk. The contract must be signed prior to the first day of the first month for which the contract applies and must be received by the Market Administrator by the 15th day of that month. For the first month that the program is effective, contracts must be signed on or after the day on which the program becomes effective. For example, if the program becomes effective on February 15, contracts for March milk must be signed between February 15 and February 28, and copies must be received by the Market Administrator by March 15.

Each handler must give each contracting dairy farmer or cooperative association a disclosure statement informing them of the nature of the program and providing certain information that should be considered before entering into a forward contract. It is important that producers clearly understand on what basis they are being paid for contract milk. The disclosure statement must be signed on the same date as the contract by the dairy farmer or cooperative association representative and will have to be returned by the handler to the Market Administrator together with the contract. The disclosure is less than one page long and can easily be incorporated into the body of the forward contract itself or can be handled as a supplement that may be attached to the forward contract. Any contract that is submitted to the Market Administrator without the disclosure statement will be considered to be invalid for the purpose of being exempt from the order's minimum pricing and will be returned to the handler.

Producers who are not members of a cooperative association should be aware that their milk weights and tests will continue to be handled in the same way by the Market Administrator even if they choose to enter into a forward contract which prices their milk on a different basis than the milk marketing order in which their milk is pooled. For example, if a producer in the Appalachian Order, which prices the milk of dairy farmers on the basis of skim milk and butterfat, enters into a contract that prices milk on the basis of protein, butterfat, other solids, and somatic cell count, the producer will only receive data from the Market Administrator on the skim and butterfat components to compare against the buying handler's test data. If the producer wants to verify other component tests, they must do so at their own expense.

Handlers with forward contracts remain subject to all other milk marketing order provisions. Payments specified under a forward contract must be made on or before the same dates as order payments which they replace. If handlers paid producers under contract at different times than producers not

under contract, disorderly conditions might occur. Payments for milk covered under forward contract are required to be made by the dates specified in § 1145.2(e) of the regulations.

Executive Order 12866 and Executive Order 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health, and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. This action has been designated as a ''non-significant regulatory action'' under § 3(f) of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget (OMB).

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have a retroactive effect. There are no administrative procedures which must be exhausted prior to judicial challenge to the provisions of this rule.

Executive Order 13175

This rule has been reviewed for compliance with Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' The review reveals that this rule will not have substantial and direct effects on Tribal Governments and will not have significant Tribal implications. AMS consulted with the USDA Office of Tribal Relations in development of this proposed rule and believes that it will not impact or have direct effects on Tribal governments and will not have significant Tribal implications. AMS continues to consult with the USDA Office of Tribal Relations to collaborate meaningfully to develop and strengthen departmental regulations.

Regulatory Flexibility Act and Paperwork Reduction Act

The legal basis for this rule was first set forth in the 2008 Farm Bill, which prohibited new forward contracts from being entered into after September 30, 2012, and no forward contracts entered into under the program extending beyond September 30, 2015 (7 U.S.C. 8772(e)). Passage of the ATRA revised the program to allow new contracts to be entered into until September 30, 2013. The 2014 Farm Bill has again extended the program so that producers and cooperative associations of producers may now enter into forward price contracts under the DFPP through September 30, 2018, and that all terms of the forward contract must expire prior to September 30, 2021. All other provisions and requirements of the program as provided for in the final rule published October 31, 2008 (73 FR 64868) are still in effect.

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities and has certified that this rule will not have a significant economic impact on a substantial number of small entities for the reasons stated herein. For the purpose of the Regulatory Flexibility Act, a dairy farm is considered a small business if it has an annual gross revenue of less than $750,000, and a dairy products manufacturer is a small business if it has fewer than 500 employees.

For the purposes of determining which dairy farms are small businesses, the $750,000 per year criterion was used to establish a production guideline of 500,000 pounds per month. Although this guideline does not factor in additional monies that may be received by dairy producers, it should be an inclusive standard for most small dairy farmers. For purposes of determining a handler's size, if the plant is part of a larger company operating multiple plants that collectively exceed the 500-employee limit, the plant will be considered a large business even if the local plant has fewer than 500 employees.

During an average month in 2012, the milk of 40,750 dairy farmers was pooled throughout the Federal milk marketing order system. Of the total, an estimated 38,305 dairy farmers, or 94 percent, were considered small businesses. During the same time period, there was an average of 237 pool handlers per month with milk priced and pooled on a Federal milk marketing order. Of this total, approximately 126, or 53 percent, were considered small businesses.

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

The reporting and recordkeeping requirements for this rule are minimal. Section 1601 of the 2014 Farm Bill provides that the extension of the Dairy Forward Pricing Program shall be made without regard to the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). Although exempted, the requirements of the Paperwork Reduction Act were considered in developing the provisions of this rule. The provisions extending the Dairy Forward Pricing Program have been carefully reviewed and every effort has been made to minimize recordkeeping costs or requirements.

Any handler that enters into a forward contract with a producer or cooperative association of producers must have written proof of such an arrangement. To meet other requirements for participation in this program, a handler must submit a copy of each forward contract with a producer or cooperative association of producers to the market administrator of the order which regulates the milk. Submitting this information to the milk market administrator is estimated to take 5 minutes or less. The handler must attach a disclosure statement to each forward contract, or otherwise make such statement part of the contract. The disclosure statement must be signed by each producer or cooperative representative entering into a forward contract. The disclosure statement explains that producers or cooperative associations of producers entering into forward contracts forfeit their rights to receive the minimum order price(s) for that portion of their milk that is subject to the contract for the duration of the contract period. Preparing the contract and attaching or including the disclosure statement is estimated to take 20 minutes or less per contract.

Any handler participating in the program will continue to file all of the reports that are required under the applicable Federal milk marketing order, as authorized under the AMAA. The information collection requirements contained in the Federal milk marketing order program have been previously approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 and have been assigned OMB Control Number 0581–0032. This includes reports of utilization of milk and monthly payroll reports that show information required by the orders. Taking into account the Dairy Forward Pricing Program, the monthly payroll report of each participating handler and the support statement sent from each participating handler to each participating producer must contain detailed accounting that distinguishes total rates used in making payment and volumes for milk under forward contract. While the resulting changes in burden are exempt from the Paperwork Reduction Act, slight

modifications to the currently approved ''Handler's Report for Producer Payroll'' form have been submitted to the OMB.

If a handler's contract milk exceeds the handler's eligible milk for any month in which the specified contract price(s) are below the order's minimum prices, the handler must designate which producer milk shall not be contract milk. Preparing this notification is estimated to take 5 minutes or less. If the handler does not designate the suppliers of the over-contracted milk, the market administrator shall prorate the over-contracted milk to each producer and cooperative association having a forward contract with the handler.

The primary sources of data used to complete these reports are routinely used in most business transactions. The additional reporting requirements required by this rule typically only require a minimal amount of data processing time, and the information collection and reporting burden is relatively small. Requiring the same reports for all handlers does not significantly disadvantage any handler that is smaller than the industry average.

USDA does not expect the forward contracting program to unduly burden small entities or impair their ability to compete in the marketplace. In its simplest form, a forward contract between a milk buyer and a milk producer (or cooperative) is an agreement to sell a stated quantity of milk for a specified period at a stated price. Producers and handlers are able to ''lock-in'' prices, thereby minimizing risks associated with price and income volatility and enhancing their ability to obtain new or continued financing. By providing another tool to possibly reduce price risk, the program may aid small businesses in competing with larger entities that currently utilize futures and options markets, among other means, to reduce price volatility.

Final Action

In accordance with the 2014 Farm Bill, this final rule extends the Dairy Forward Pricing Program applicable under all Federal milk marketing orders. New contracts under the Program may be entered into until September 30, 2018. Any forward contract entered into up to and until the September 30, 2018, deadline is subject to a September 30, 2021, expiration date.

Subtitle F of Title I of the 2014 Farm Bill provides that the promulgation of these regulations shall be made without regard to the Paperwork Reduction Act (44 U.S.C. Chapter 35), the Statement of Policy of the Secretary of Agriculture, effective July 24, 1971 (36 FR 13804),[1] and the notice and comment provisions of section 553 of Title 5, United States Code.

These provisions are made final in this action, and for the same reasons good cause exists for making this rule effective one day after publication in the **Federal Register**. To do otherwise would be impracticable, unnecessary, and contrary to the public interest. (5 U.S.C. 553; 5 U.S.C. 808)

List of Subjects in 7 CFR Part 1145

Contract, Forward contract, Forward pricing, Milk.

For the reasons set forth in the preamble, Title 7, chapter X, Part 1145 is amended as follows:

PART 1145—DAIRY FORWARD PRICING PROGRAM

■ 1. The authority citation for 7 CFR part 1145 continues to read as follows:

Authority: 7 U.S.C. 8772.

■ 2. Amend § 1145.2 by revising paragraph (b) to read as follows:

§ 1145.2 Program.

* * * * *

(b) No forward price contract may be entered into under the program after September 30, 2018, and no forward contract entered into under the program may extend beyond September 30, 2021.

* * * * *

Dated: February 19, 2014.

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2014–06189 Filed 3–20–14; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1216

[Document Number AMS–FV–13–0042]

Peanut Promotion, Research, and Information Order; Amendment to Primary Peanut-Producing States and Adjustment of Membership

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule adds the State of Arkansas as a primary peanut-producing State under the Peanut Promotion, Research, and Information Order (Order). The Order is administered by the National Peanut Board (Board) with oversight by the U.S. Department of Agriculture (USDA). This rule also adds a seat on the Board for the State of Arkansas. Under the Order, primary peanut-producing States must maintain a 3-year average production of at least 10,000 tons of peanuts. Arkansas's peanut production meets this requirement. Primary peanut-producing States also have a seat on the Board. This action was recommended by the Board and ensures that the Board's representation reflects changes in the geographical distribution of the production of peanuts.

DATES: *Effective:* March 24, 2014.

FOR FURTHER INFORMATION CONTACT: Jeanette Palmer, Marketing Specialist, Promotion and Economics Division, Fruit and Vegetable Program, AMS, USDA, Stop 0244, 1400 Independence Avenue SW., Room 1406–S, Washington, DC 20250–0244; telephone: (202) 720–9915; facsimile: (202) 205–2800; or electronic mail: *Jeanette.Palmer@ams.usda.gov*.

SUPPLEMENTARY INFORMATION: This rule is issued under the Order (7 CFR part 1216). The Order is authorized under the Commodity Promotion, Research, and Information Act of 1996 (1996 Act) (7 U.S.C. 7411–7425).

Executive Order 12866 and Executive Order 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules and promoting flexibility. This action has been designated as a ''non-significant regulatory action'' under section 3(f) of Executive Order 12866. Accordingly, the Office of Management and Budget (OMB) has waived the review process.

Executive Order 13175

This action has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The review reveals that this regulation will not have substantial and direct effects on Tribal governments and will not have significant Tribal implications.

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[1] A Revocation of the Statement of Policy was published in the **Federal Register** on October 28, 2013 (78 FR 64194).

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. Section 524 of the 1996 Act provides that it shall not affect or preempt any other Federal or State law authorizing promotion or research relating to an agricultural commodity.

Under section 519 of the 1996 Act, a person subject to an order may file a written petition with USDA stating that an order, any provision of an order, or any obligation imposed in connection with an order, is not established in accordance with the law, and request a modification of an order or an exemption from an order. Any petition filed challenging an order, any provision of an order, or any obligation imposed in connection with an order, shall be filed within two years after the effective date of an order, provision, or obligation subject to challenge in the petition. The petitioner will have the opportunity for a hearing on the petition. Thereafter, USDA will issue a ruling on the petition. The 1996 Act provides that the district court of the United States for any district in which the petitioner resides or conducts business shall have the jurisdiction to review a final ruling on the petition, if the petitioner files a complaint for that purpose not later than 20 days after the date of the entry of USDA's final ruling.

Background

This rule adds the State of Arkansas as a primary peanut-producing State under the Order. The Order is administered by the Board with oversight by USDA. This rule also adds a seat on the Board for the State of Arkansas. Under the Order, primary peanut-producing States must maintain a 3-year average production of at least 10,000 tons of peanuts. Arkansas's peanut production meets this requirement. Primary peanut-producing States also have a seat on the Board. This action ensures that the Board's representation reflects changes in the geographical distribution of the production of peanuts covered under the Order.

The Order became effective on July 30, 1999. Under the Order, the Board administers a nationally-coordinated program of promotion, research, and information designed to strengthen the position of peanuts in the market place and to develop, maintain, and expand the demand for peanuts in the United States. Under the program, all peanut producers pay an assessment of one percent of the total value of all farmers' stock peanuts. The assessments are remitted to the Board by handlers and, for peanuts under loan, by the Commodity Credit Corporation.

The Order distinguishes between the terms ''minor peanut-producing states'' and ''primary peanut-producing states'' for purposes of Board representation and voting at meetings. Section 1216.21 defines primary peanut-producing States as Alabama, Florida, Georgia, Mississippi, New Mexico, North Carolina, Oklahoma, South Carolina, Texas and Virginia. These States must maintain a 3-year average production of at least 10,000 tons of peanuts. All other peanut-producing States are defined as minor peanut-producing States, pursuant to section 1217.15.

As specified in section 1216.40(a), the Board is composed of 11 producer members and their alternates: One member and alternate from each primary peanut-producing State, and one at-large member and alternate collectively from the minor peanut-producing States. The members and alternates are nominated by producers or producer groups.

Pursuant to section 1216.40(b) of the Order, at least once in each five-year period, the Board must review the geographical distribution of peanuts in the United States and make a recommendation to the Secretary of Agriculture (Secretary) to continue without change or whether changes should be made in the number of representatives on the Board to reflect changes in the geographical distribution of the production of peanuts.

Board Recommendation

As required by the Order, the Board met on April 9–10, 2013, and reviewed the geographical distribution of peanuts. According to data from the USDA's Federal State Inspection Service, for the years 2010, 2011, and 2012, 1,357, 6,092, and 38,866 tons of peanuts were inspected in Arkansas, respectively. Based on this data, the 3-year average annual peanut production for Arkansas totals 15,438 tons per year (46,315 divided by 3) which exceeds the requirement set in the Order of maintaining a 3-year rolling average of 10,000 tons per year to become a major peanut-producing State. (Data from USDA's National Agricultural Statistics Service (NASS) was not available at the time of the Board's review because Arkansas had not produced enough peanuts annually to be recorded. NASS plans to record peanut production for Arkansas in the near future.)

Based on Federal State Inspection Service data, the Board voted, with one member opposed, to add Arkansas as a primary peanut-producing State under the Order. The member opposed expressed concern that Arkansas did not produce 10,000 tons per year for three consecutive years, similar to when the Order was amended to add Mississippi as a primary peanut-producing State (73 FR 39214; July 9, 2008). However, the Order does not require that a State produce 10,000 tons per year for three consecutive years to be a primary peanut-producing State. The Order provides that a primary peanut-producing State shall maintain a three-year average production of at least 10,000 tons of peanuts (section 1216.21)

In addition, USDA's Federal State Inspection Service reports that 22,947 tons of peanuts were inspected in 2013. This indicates that Arkansas peanut production has maintained its production levels above 10,000 tons.

This action also adds a producer member and alternate on the Board from the State of Arkansas. Pursuant to section 1216.40(a), primary peanut-producing states have a seat on the Board.

These changes will help ensure that the Board's representation reflect changes in the geographical distribution of the production of peanuts. Accordingly, this rule amends sections 1216.15 and 1216.21 of the Order to classify the State of Arkansas as a primary peanut-producing State. This rule also revises sections 1216.40(a) and 1216.40(a)(1) of the Order to specify that the Board will be composed of 12 peanut producer members and their alternates rather than 11.

Final Regulatory Flexibility Act Analysis

In accordance with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), AMS is required to examine the impact of this rule on small entities. Accordingly, AMS has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be disproportionately burdened. The Small Business Administration (SBA) defines small agricultural producers as those having annual receipts of no more than $750,000 and small agricultural service firms (handlers) as those having annual receipts of no more than $7.0 million (13 CFR § 121.201).

According to the Board, there were approximately 9,208 producers and 29 handlers of peanuts who were subject to the program in 2012.

Most producers would be classified as small businesses under the criteria established by the SBA. USDA's NASS

reports that the farm value of the peanuts produced in the top 10 States in the years 2010, 2011, and 2012 was $939 million, $1.169 billion, and $2.309 billion, respectively; the 3-year average crop value was $1.472 billion. With a 2012 crop value of $2.309 billion, average peanut sales per producer were approximately $251,000. With a 2010–2012 average crop value of $1.472 billion, average peanut sales per producer was approximately $160,000.

The average peanut crop value per handler for 2010–2012 ranged from about $32 million to $80 million. This is many times larger than the $7 million SBA threshold and is thus an indication that most of the handlers would not be classified as small businesses.

The quantity of U.S. peanut production from the 10 major peanut-producing States for 2010, 2011, and 2012 was 4.157 billion pounds, 3.659 billion pounds, and 6.741 billion pounds, respectively; the 3-year average crop quantity was 4.852 billion pounds. NASS reports that Georgia was the largest producer (48 percent of the 3-year average quantity), followed by Alabama (13 percent), Florida (12 percent), Texas (9 percent), North Carolina (7 percent), South Carolina (6 percent), Mississippi (2 percent), Virginia (1 percent), Oklahoma (1 percent) and New Mexico (less than 1 percent). According to the 2007 Census of Agriculture, small amounts of peanuts were also grown in six other States.

If the number of peanut producers (9,208) is divided into the total U.S. production for 2012 (6.741 billion), the resulting average peanut production per producer is approximately 732,000 pounds. If divided by the 3-year average production for 2010–2012 (4.852 billion), the resulting average is approximately 527,000 pounds per producer.

This rule amends sections 1216.15 and 1216.21 of the Order to classify the State of Arkansas as a primary peanut-producing State. The Order is administered by the Board with oversight by USDA. This rule also amends section 1216.40(a)(1) to add a seat on the Board for the State of Arkansas. Under the Order, primary peanut-producing States must maintain a 3-year average production of at least 10,000 tons of peanuts. Arkansas's peanut production meets this requirement. Primary peanut-producing States also have a seat on the Board. This action will ensure that the Board's representation reflects changes in the geographical distribution of the production of peanuts covered under the Order. This action is authorized under section 1216.40(b) of the Order and Section 515(b)(3) of the 1996 Act.

Regarding the economic impact of this rule on affected entities, this action imposes no costs on producers and handlers. This rule includes the State of Arkansas as a primary peanut-producing State based on recent production data and adds a seat on the Board for the State of Arkansas.

With regard to alternatives, the Board reviewed the peanut distribution for all the minor peanut-producing States, and determined that Arkansas was the only current minor State that met the Order's requirement for a 3-year average peanut production of at least 10,000 tons.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the background form, which represents the information collection and recordkeeping requirements imposed by this rule, was previously approved under OMB control number 0505–0001.

Adding a producer member and alternate member representing the State of Arkansas for the Board means that four additional producers will be required to submit background forms to USDA in order to be considered for appointment to the Board. Four producers will be affected because two names must be submitted to the Secretary for consideration for each position on the Board (two members and two alternates). The public reporting burden is estimated to increase by an average 0.5 hours per response for each of the four producers. This additional burden is included in the existing information collections approved for use under OMB control number 0505–0001. The estimated annual cost of providing the information by the four producers is $66.00 or $16.50 per producer. However, serving on the Board is optional, and the burden of submitting the background form will be offset by the benefits of serving on the Board.

As with all Federal promotion programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. Finally, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

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

In regards to outreach efforts, the Board discussed the state of Arkansas peanut production level at its November 27–30, 2012, meeting. The Board notified the major peanut-producing States (Georgia, Alabama, Florida, Texas, North Carolina, South Carolina, Mississippi, Virginia, Oklahoma, and New Mexico) of Arkansas's production numbers by disseminating information through the Board's weekly newsletter which is titled *News in a Nutshell.* The Board also sent out notification about Arkansas's increased production numbers to the peanut industry through its *Peanut Quarterly* newsletter. In addition, Arkansas's increased production numbers in the year 2012 to present date were widely published in trade publications. The Board met in April 2013 and recommended adding the State of Arkansas as a primary peanut-producing State. All of the Board's meetings where this issue was discussed were open to the public and interested persons were invited to participate and express their views.

A proposed rule concerning this action was published in the **Federal Register** on December 23, 2013 (78 FR 77368). The Board issued a press release about the proposed rule and sent it to the trade media, all known state peanut organizations, and all Board members and alternates. The Board also included notifications about the proposal in its newsletters and on its Web site at *nationalpeanutboard.org.* Finally, the proposal was made available through the Internet by USDA and the Office of the Federal Register. A 30-day comment period ending January 22, 2014, was provided to allow interested persons to submit comments.

Analysis of Comments

Fourteen comments were received in response to the proposed rule. Thirteen comments supported the proposal and one expressed concern about the peanut program and taxpayer dollars.

The comments supporting the proposal concurred that Arkansas meets the Order's requirement of having maintained a three-year average production of at least 10,000 tons of peanuts. Further, designating Arkansas as a primary peanut-producing State would ensure that the Board's representation reflect the geographical distribution of the production of peanuts.

One comment expressed concern about the peanut program and the use of taxpayer dollars. The national peanut promotion program is authorized under the 1996 Act and is funded through assessments paid by peanut producers. It does not receive taxpayer funds. The comment went on to suggest that the proposed rule did not appear on

regulations.gov. However, that is not the case. The proposed rule was made available on the Web site the day it was published in the **Federal Register**. As well, comments received on the proposed rule were posted to the Web site following posting of the rule. Accordingly, no changes have been made to the rule based on this comment.

After consideration of all relevant matters presented, including the information and recommendation submitted by the Board and other available information, it is hereby found that this rule, as hereinafter set forth, is consistent with and will effectuate the purposes of the 1996 Act.

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because this action should be in effect as soon as possible so that the changes may be implemented for the next nomination process which begins in the spring of 2014. Additionally, a 30-day comment period was provided for in the proposed rule, and the majority of comments supported the changes.

List of Subjects in 7 CFR Part 1216

Administrative practice and procedure, Advertising, Consumer information, Marketing agreements, Peanut promotion, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR Part 1216 is amended as follows:

PART 1216—PEANUT PROMOTION, RESEARCH, AND INFORMATION ORDER

■ 1. The authority citation for 7 CFR part 1216 continues to read as follows:

Authority: 7 U.S.C. 7411–7425; 7 U.S.C. 7401.

■ 2. Section 1216.15 is revised to read as follows:

§ 1216.15 Minor peanut-producing states.

Minor peanut-producing states means all peanut-producing states with the exception of Alabama, Arkansas, Florida, Georgia, Mississippi, New Mexico, North Carolina, Oklahoma, South Carolina, Texas, and Virginia.

■ 3. Section 1216.21 is revised to read as follows:

§ 1216.21 Primary peanut-producing states.

Primary peanut-producing states means Alabama, Arkansas, Florida, Georgia, Mississippi, New Mexico, North Carolina, Oklahoma, South Carolina, Texas, and Virginia, *Provided,* these states maintain a 3-year average production of at least 10,000 tons of peanuts.

■ 4. Section 1216.40, paragraph (a) introductory text and (a)(1) are revised to read as follows:

§ 1216.40 Establishment and membership.

(a) *Establishment of a National Peanut Board.* There is hereby established a National Peanut Board, hereinafter called the Board, composed of no more than 12 peanut producers and alternates, appointed by the Secretary from nominations as follows:

(1) *Eleven members and alternates.* One member and one alternate shall be appointed from each primary peanut-producing state, who are producers and whose nominations have been submitted by certified peanut producer organizations within a primary peanut-producing state.

* * * * *

Dated: March 6, 2014.

Rex A. Barnes,

Associate Administrator.

[FR Doc. 2014–06181 Filed 3–20–14; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Parts 4, 5, 7, 10, 11, 16, 19, 24, 34, and 40

[Docket ID OCC–2014–0005]

RIN 1557–AD76

Technical Amendments: Removal of Rules Transferred to the Consumer Financial Protection Bureau; OCC Address Change

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is removing regulations concerning registration of mortgage loan originators, and regulations relating to privacy of consumer financial information. Rulemaking authority for these rules transferred to the Consumer Financial Protection Bureau on July 21, 2011 pursuant to Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act, and these OCC rules are therefore no longer operative. The OCC also is amending its regulations to update its address to reflect its move to a new headquarters building, to update the address of its Freedom of Information Act web portal, and to update its Web site address.

DATES: Effective March 21, 2014.

FOR FURTHER INFORMATION CONTACT: For additional information, contact Heidi Thomas, Special Counsel, or Stuart Feldstein, Director, Legislative and Regulatory Activities Division, 202–649–5490; Office of the Comptroller of the Currency, Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

I. Description of Rule

This final rule makes a number of technical amendments to the OCC's rules, as described below.

Transfer of Rules to the Consumer Financial Protection Bureau

The Dodd-Frank Wall Street Reform and Consumer Protection Act [1] (Dodd-Frank Act) transferred to the Consumer Financial Protection Bureau (CFPB) Federal rulemaking authority for the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (SAFE Act) [2] and the financial information privacy provisions in Title V of the Gramm-Leach-Bliley Act (GLBA).[3] The Office of the Comptroller of the Currency previously issued rules implementing these laws for national banks, Federal branches and agencies of foreign banks, and their operating subsidiaries (collectively, national banks) at 12 CFR part 34, subpart F (rules for national banks governing the registration of residential mortgage loan originators) and 12 CFR part 40 (privacy of customer financial information), respectively. This transfer of rulemaking authority to the CFPB occurred on July 21, 2011, and the CFPB has since reissued these rules as CFPB rules.[4] National banks now must comply with these rules as reissued by the CFPB and not as previously promulgated and published by the OCC, rendering part 34, subpart F, and part 40 no longer operative. Accordingly, the OCC is removing these rules from the Code of Federal Regulations.[5]

OCC Headquarters Address Change

In May 2013, the OCC completed its move to a new headquarters building in

[1] Public Law 111–203, 124 Stat. 1376 (2010).

[2] 12 U.S.C. 5101 *et seq. See* Dodd-Frank Act, sections 1002(12)(N) and 1022 (12 U.S.C. 5481(12)(N) and 5512).

[3] In general, sections 502 through 509 of GLBA (15 U.S.C. 6802 through 6809). *See* Dodd-Frank Act sections 1002(12)(J) and 1022 (12 U.S.C. 5481(12)(J) and 5512).

[4] *See* 12 CFR parts 1007 and 1016.

[5] We note that the Dodd-Frank Act also transferred rulemaking authority for certain provisions of the Fair Credit Reporting Act to the CFPB. The OCC is addressing this transfer through a separate rulemaking.

Washington, DC. As a result, the address for the OCC included in 12 CFR parts 4, 5, 7, 10, 11, 16, and 19 is now out-of-date. This final rule amends these rules to replace the OCC's former address with its current address, 400 7th Street SW., Washington, DC 20219.

OCC Web site

Current 12 CFR parts 5 and 24 include the original Web site address for the OCC, *http://www.occ.treas.gov.* Since we published these rules, the OCC has simplified the Web site address to *www.occ.gov.* This final rule amends these rules to reflect this change.

OCC Freedom of Information Office

Twelve CFR 4.15(b)(1), 4.18(a)(1), and 4.18(b) contain an OCC Freedom of Information Act (FOIA) Web portal address, through which the public may submit FOIA requests, appeal an OCC FOIA decision, and track the status of a FOIA request. This final rule updates this address to *https://foia-pal.occ.gov/palMain.aspx.* In addition, the final rule amends 12 CFR 4.15(g) to clarify the name of the OCC office that receives FOIA requests.

II. Notice and Comment

Pursuant to the Administrative Procedure Act (APA), notice and comment are not required prior to the issuance of a final rule if an agency, for good cause, finds that ''notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' [6]

The OCC finds that public notice and comment on this final rule are unnecessary. Because the Dodd-Frank Act transferred all Federal rulemaking for the SAFE Act and the financial information privacy provisions in Title V of GLBA to the CFPB as of July 21, 2011, the existing OCC rules implementing these laws for national banks are no longer operative. The removal of these rules from the Code of Federal Regulations is clerical in nature, and will reduce any possible confusion that may result from having two sets of rules addressing these laws.

In addition, the final rule's update of the OCC's physical and Web site addresses, FOIA web portal address, and FOIA division name is purely a technical change to our rules and provides our regulated institutions, interested parties, and the public with the OCC's current and most accurate contact information.

For these reasons, the OCC has good cause to conclude that advance notice and comment under the APA for this rulemaking are unnecessary.

III. Effective Date

This final rule is effective on March 21, 2014. Pursuant to the APA, a final rule may be effective without 30 days advance publication in the **Federal Register** if an agency finds good cause and publishes such with the final rule.[7] The purpose of a delayed effective date is to allow regulated entities to adjust their behavior before the final rule takes effect. As described above, the final rule removes from the Code of Federal Regulations rules that are no longer valid and updates the OCC's physical and Web site addresses, the OCC's FOIA web portal address, and the OCC's FOIA division name. These amendments do not require national banks to adjust their behavior in a substantive manner. Therefore, the OCC finds good cause to dispense with a delayed effective date.

Section 302 of the Riegle Community Development and Regulatory Improvement Act of 1994 [8] (RCDRIA) requires, subject to certain exceptions, that regulations imposing additional reporting, disclosure, or other requirements on insured depository institutions take effect on the first day of the calendar quarter after publication of the final rule. This final rule does not impose additional reporting, disclosure, or other requirements and therefore section 302 of the RCDRIA does not apply.

IV. Regulatory Analysis

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (RFA),[9] an agency must prepare a regulatory flexibility analysis for all proposed and final rules that describes the impact of the rule on small entities, unless the head of an agency certifies that the rule will not have ''a significant economic impact on a substantial number of small entities.'' However, the RFA applies only to rules for which an agency publishes a general notice of proposed rulemaking pursuant to the APA.[10] As discussed above, the OCC has determined for good cause that the APA does not require notice and public comment on this rule and, therefore, we are not publishing a general notice of proposed rulemaking. Thus, the RFA does not apply to this final rule.

Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) [11] requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year. If a budgetary impact statement is required, section 205 of UMRA [12] also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. However, the UMRA applies only to rules for which an agency publishes a general notice of proposed rulemaking pursuant to the APA.[13] As discussed above, the OCC has determined for good cause that the APA does not require general notice and public comment on this rule and, therefore, we are not publishing a general notice of proposed rulemaking. Thus, the UMRA does not apply to this final rule. Accordingly, the OCC has not prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered.

Paperwork Reduction Act

This final rule removes several regulatory provisions that have currently approved collections of information under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501–3520).[14] Non-substantive changes have previously been made to these collections to reflect the transfer of the rules to the CFPB.

List of Subjects

12 CFR Part 4

Administrative practice and procedure, Freedom of information, Individuals with disabilities, Minority businesses, Organization and functions (Government agencies), Reporting and recordkeeping requirements, Women.

12 CFR Part 5

Administrative practice and procedure, National banks, Reporting and recordkeeping requirements, Securities.

12 CFR Part 7

Computer technology, Credit, Insurance, Investments, National banks, Reporting and recordkeeping requirements, Securities, Surety bonds.

12 CFR Part 10

National banks, Reporting and recordkeeping requirements, Securities.

[6] 5 U.S.C. 553(b).

[7] 5 U.S.C. 553(d)(3).

[8] 12 U.S.C. 4802.

[9] 5 U.S.C. 603.

[10] 5 U.S.C. 603(a), 604(a).

[11] 2 U.S.C. 1532.

[12] 2 U.S.C. 1535.

[13] 2 U.S.C. 1532(a).

[14] OMB Control Nos. 1557–0216 and1557–0243.

12 CFR Part 11

Confidential business information, National banks, Reporting and recordkeeping requirements, Securities.

12 CFR Part 16

National banks, Reporting and recordkeeping requirements, Securities.

12 CFR Part 19

Administrative practice and procedure, Crime, Equal access to justice, Investigations, National banks, Penalties, Securities.

12 CFR Part 24

Community development, Credit, Investments, Low and moderate income housing, National banks, Reporting and recordkeeping requirements, Rural areas, Small businesses.

12 CFR Part 34

Mortgages, National banks, Reporting and recordkeeping requirements.

12 CFR Part 40

Banks, Banking, Consumer protection, National banks, Privacy, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, and under the authority of 12 U.S.C. 93a, chapter I of title 12 of the Code of Federal Regulations is amended as follows:

PART 4 [AMENDED]

■ 1. Part 4 is amended as follows:
■ a. Remove the phrase ''250 E Street, SW.,'' wherever it appears and add ''400 7th Street SW.,'' in its place in §§ 4.4, 4.14(c), and 4.17(c);
■ b. Remove the phrase ''250 E Street, SW.,'' and add ''400 7th Street, SW.,'' in its place in §§ 4.15(b)(1), 4.15(e)(2), and 4.34(a);
■ c. Remove the web address ''*https://appsec.occ.gov/publicaccesslink/palMain.aspx*'' and add the web address ''https://foia-pal.occ.gov/palMain.aspx'' in its place in §§ 4.15(b)(1), 4.18(a)(1), and 4.18(b); and
■ d. Remove the phrase ''OCC Communications Division'' and add in its place ''Disclosure Services, Communications Division'' in § 4.15(g).

PART 5 [AMENDED]

■ 2. Part 5 is amended as follows:
■ a. Remove the phrase ''250 E Street SW., Washington, DC 20219–0001'' and add ''400 7th Street SW., Washington, DC 20219'' in its place in § 5.2(c);
■ b. Remove the web address ''*http://www.occ.treas.gov*'' and add ''*www.occ.gov*'' in its place in § 5.2(c); and
■ c. Remove the web address ''www.occ.treas.gov'' and add ''www.occ.gov'' in its place in footnote 1 in § 5.34(e)(5)(v)(R).

PART 7 [AMENDED]

■ 3. Part 7 is amended by removing the phrase ''250 E Street SW.,'' and adding ''400 7th Street SW.,'' in its place in footnote 2 in § 7.2000(c).

PART 10 [AMENDED]

■ 4. Part 10 is amended by removing the phrase ''250 E Street SW.,'' and adding ''400 7th Street SW.,'' in its place in § 10.2(c).

PART 11 [AMENDED]

■ 5. Part 11 is amended by removing the phrase ''250 E Street SW.,'' and adding ''400 7th Street SW.,'' in its place in § 11.3(a)(1).

PART 16 [AMENDED]

■ 6. Part 16 is amended by removing the phrase ''250 E Street SW.,'' and adding ''400 7th Street SW.,'' in its place in § 16.17(a).

PART 19 [AMENDED]

■ 7. Part 19 is amended by removing the phrase ''250 E Street SW.,'' and adding ''400 7th Street SW.,'' in its place in § 19.100.

PART 24 [AMENDED]

■ 8. Part 24 is amended by removing the web address ''*http://www.occ.treas.gov*'' and adding ''*www.occ.gov*'' in its place in § 24.5(a)(2) and (b)(1).

PART 34—REAL ESTATE LENDING AND APPRAISALS

■ 9. Revise the authority citation for part 34 to read as follows:

Authority: 12 U.S.C. 1 *et seq.,* 25b, 29, 93a, 371, 1465, 1701j–3, 1828(o), and 5412(b)(2)(B).

Subpart F [Removed]

■ 10. Remove subpart F, consisting of §§ 34.101 through Appendix A to Subpart F of Part 34.

PART 40 [REMOVED]

■ 11. Remove part 40.

Dated: March 10, 2014.

Thomas J. Curry,

Comptroller of the Currency.

[FR Doc. 2014–05826 Filed 3–20–14; 8:45 am]

BILLING CODE 4810–01–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 120

RIN 3245–AG04

504 and 7(a) Loan Programs Updates

AGENCY: U.S. Small Business Administration.

ACTION: Final rule.

SUMMARY: This rule finalizes the proposed rule that the U.S. Small Business Administration (''SBA'') issued to improve access to its two flagship business lending programs: the 504 Loan Program and the 7(a) Loan Program. This rule will enhance job creation through increasing eligibility for loans under SBA's business loan programs and by modifying certain program participant requirements applicable to the 504 Loan Program. In addition, SBA is revising Certified Development Company (CDC) operations requirements to clarify certain existing regulations. SBA has decided to further study the issue of how to redefine affiliation for the business loan programs and is not including any changes to the affiliation standards in this final rule.

DATES: This rule is effective April 21, 2014, except for the amendment to 13 CFR 120.823, which is effective April 21, 2015.

FOR FURTHER INFORMATION CONTACT: Linda Rusche, Director, of Financial Assistance; ATTN: Linda Reilly, Chief, 504 Program Branch, Office of Financial Assistance, Small Business Administration, 409 3rd Street SW., Washington, DC 20416; telephone 202–205–9949.

SUPPLEMENTARY INFORMATION:

I. Background

The 504 Loan Program and 7(a) Loan Program are SBA's two primary business loan programs authorized under the Small Business Investment Act of 1958 and the Small Business Act, respectively. On February 25, 2013, SBA published a proposed rule with request for comments in the **Federal Register** to implement several changes intended to reinvigorate the business loan programs by eliminating unnecessary compliance burdens and loan eligibility restrictions. 78 FR 12633. The major changes proposed by SBA related to affiliation principles, the personal resources test, the 9-month rule for the 504 Loan Program, and operational and organizational requirements for Certified Development Companies (''CDCs''). The comment period was open until April 26, 2013. SBA received

99 written comments during the comment period. These comments were received from 62 separate entities or individuals, including 32 CDCs, 16 financial institutions, 11 trade associations, one business, one United States Senator, and one individual. (The number of separate commenters does not total 99 because, in many cases, SBA received more than one submission from representatives of the same entity). The comments are summarized and addressed below.

II. Summary of Comments Received

A. Affiliation as Applied to the Business Loan Programs—Section 121.302

SBA received 56 comments related to the proposed affiliation standards for small businesses. SBA received many comments that were generally supportive of the proposed standards and also received several comments that opposed or suggested modifications to certain provisions. Several commenters opposed the ''totality of the circumstances'' standard set forth in proposed section 121.302(a). Among the comments were that this standard would leave too much gray area and might not be consistently applied, and that it would be preferable to have a black and white test; that this standard is vague and open-ended; and that it would subject lender decisions to more scrutiny and second-guessing than currently occurs. In addition, many commenters expressed concern that the proposed six-page Applicant Affidavit on Affiliation was far too complicated for the typical applicant to complete without the extensive assistance of an attorney, a certified public accountant, and/or the CDC. Some expressed concern that the proposed Affidavit would likely add to the applicant's cost and would increase the time needed to prepare applications, and would not, contrary to SBA's intention, result in streamlining the process and reducing costs. Another commenter stated that the CDC would not be able to rely exclusively on the Affidavit, and would still be required by prudent lending to evaluate the validity of the Affidavit by comparing it to the applicant's financial and organizational documents. In light of the comments, and upon further consideration, SBA has decided to further study the issue of redefining affiliation for the business loan programs and is not finalizing any changes to the affiliation standards at this time.

B. Elimination of Personal Resources Test in Business Loan Programs—Section 120.102

SBA proposed to eliminate section 120.102, commonly known as ''the personal resources test.'' Commenters expressed overwhelming support for the elimination of this regulation, which requires certain owners of a Borrower to inject personal liquid assets into the business to reduce the amount of SBA guaranteed funds that would otherwise be needed. Those opposed to eliminating the regulation were concerned that it would lead to increased scrutiny by SBA of lenders' determinations that credit was ''not available elsewhere'', which is a requirement of Section 120.101. While there may be some connection between Section 120.101 and 120.102, the findings for each are distinct. The present regulation at Section 120.102 concerns the effect of personal resources available to the applicant, while the regulation at Section 120.101 addresses the availability of financing from non-federal sources. Others opposed felt that more Borrowers with significant assets would receive loans and that personal liquid assets would not be required to be converted to collateral for the loan, and that this practice would not be consistent with prudent lending. Although SBA will no longer require that the personal resources of owners be used to reduce the SBA funded portion of the total financing package, a lender that believes that prudent lending requires that assets either be injected or pledged as collateral for a particular loan would not be prohibited from so requiring. See, e.g., 13 CFR 120.150.

One commenter suggested that SBA raise the level of exempted personal resources rather than eliminate the rule entirely. SBA considered that option but determined that elimination of the personal resources test would enable more robust Borrowers to participate in SBA's loan programs, thus mitigating risk to SBA's loan portfolio while facilitating job growth. SBA is adopting this regulation as proposed by removing this provision from the regulations.

C. CDC Operational and Organizational Requirements

1. Section 120.816 CDC Non-Profit Status and Good Standing

SBA proposed to redesignate section 120.820 as section 120.816. There were no comments regarding this change, and SBA is redesignating this section as proposed.

2. Section 120.818 Applicability to Existing for-Profit CDCS

SBA proposed to add this section to clarify that, unless expressly provided otherwise in the regulations, any Loan Program Requirement (as defined in section 120.10) that applies to non-profit CDCs also applies to for-profit CDCs. This regulation reflects current practice. All commenters supported this regulation, but one commenter suggested that the rule be modified to permit for-profit CDCs to pay dividends. However, under current section 120.825, CDCs are prohibited from paying dividends out of funds generated from loan activity in the 504 Loan Program. This regulation requires that any funds generated from 504 loan activity by a CDC that remain after payment of staff and overhead expenses be retained by the CDC as a reserve for future operations or for investment in other local economic development activity in its Area of Operations. This requirement serves the interests of the 504 Loan Program, and SBA will not modify the rule to permit dividends.

The commenter also suggested that the rule be modified to allow shareholders to serve as officers, directors and employees. However, under current section 120.823, a shareholder may be an employee or staff of a CDC, but may not at the same time serve as a voting member of the Board. SBA is continuing this prohibition in the final rule.

SBA has required that CDCs be non-profit corporations since 1987 (see current 13 CFR 120.820). There are five for-profit CDCs that were established and certified by SBA prior to that date, and these CDCs have been allowed to continue to operate in the 504 Loan Program. As noted above, this section is expressly stating the existing practice, which SBA believes is appropriate, and SBA is adopting this regulation as proposed.

3. Section 120.820 CDC Affiliation

In section 120.820(a), SBA proposed to require that a CDC be independent and not affiliated with any Person (the definition of which under § 120.10 includes a 7(a) Lender), except as permitted under this section. No comments were received with respect to paragraph (a), and SBA is adopting this provision as proposed.

In section 120.820(b), SBA proposed to permit CDCs to be affiliated with an entity whose function is economic development in the same Area of Operations and that is either a non-profit entity or a State or local government political subdivision. SBA

received several comments in support of this provision. However, one commenter expressed concern that the affiliated entity could charge the CDC excessive fees. SBA also received two comments in opposition from CDCs that currently each have a for-profit affiliate. These commenters stated that the for-profit affiliate needed to associate with a community development or economic development partner in order to secure other federal financial assistance, such as through the New Market Tax Credits Program. One of the commenters stated that, through its for-profit affiliate, the CDC derived additional income that it was able to use to invest in economic development activities in its community, including to provide financial and professional technical assistance to disadvantaged small businesses. Both commenters also requested that SBA consider revising the rule to include a ''grandfather provision'', arguing that it would be unfair to apply this prohibition to existing for-profit affiliates.

SBA has considered these comments and is revising the final rule to add a new paragraph (e) to allow a CDC to continue to have for-profit affiliates (other than a 7(a) Lender) if such for-profit entities were affiliated with the CDC prior to the date of publication of this final rule in the **Federal Register**. In addition, SBA recognizes that, after the effective date of this final rule, there may be unique circumstances, such as those described by the commenters, where a CDC's affiliation with a for-profit entity may serve the best interests of the 504 Loan Program. Accordingly, SBA is revising the rule to provide that, with the prior written approval of the D/FA or designee in his or her discretion, a CDC may be affiliated with a for-profit entity (other than a 7(a) Lender) whose function is economic development in the same Area of Operations if such affiliation is in the best interests of the 504 Loan Program.

With respect to section 120.820(c), a few commenters generally supported this provision which, as proposed, would permit a CDC to continue its affiliation with a 7(a) Lender that is either a state or local development company approved by SBA as of November 6, 2003, or a credit union, so long as the affiliation was in effect as of the effective date for this final rule. For the final rule, SBA is simplifying this provision to state that ''[a] CDC that was affiliated with a 7(a) Lender as of November 6, 2003, may continue such affiliation.'' This change retains the timeframe for grandfathering affiliations with state development companies that is contained in section 120.852(a)—which allows for such affiliations if they existed as of November 6, 2003—instead of extending the grandfather period for these affiliations to the effective date of this final rule. This change would also allow a CDC to continue to be affiliated with any other 7(a) Lender (including credit unions) if the affiliation was in effect as of November 6, 2003. SBA does not expect that changing the grandfather period for these 7(a) Lenders from the effective date of this final rule to November 6, 2003 will affect any CDCs. The limited grandfathering of pre-existing affiliations between CDCs and 7(a) Lenders set forth in this provision is the only exception to the prohibition on these affiliations that is authorized under SBA's rules.

In addition, SBA is including in section 120.820(c) the prohibition against a CDC affiliating with or investing, directly or indirectly, in a 7(a) Lender. This prohibition is currently set forth in § 120.852(a) and, to avoid confusion, SBA is consolidating all of the provisions related to CDC affiliation in section 120.820. SBA has long interpreted the prohibition against a CDC investing in a 7(a) Lender to mean investing ''directly or indirectly'' and is including this phrase in the rule. With this change, and the change discussed below regarding SBICs in section 120.852(b), SBA is removing and reserving § 120.852.

Several commenters were opposed to proposed section 120.820(d), in which SBA proposed to prohibit CDCs from being affiliated with, or directly or indirectly investing in or financing, another CDC. The commenters stated that the program has benefitted from more experienced CDCs being able to offer financial or managerial assistance to new CDCs. One commenter expressed concern that this provision would prohibit a CDC from contracting with another CDC for ''back-office packaging, processing or liquidation services''. SBA recognizes that the program may benefit from such assistance and, under current section 120.824(b), a CDC may continue to request SBA's approval of a professional services contract with another CDC. However, SBA does intend for section 120.820(d) to prohibit a CDC from being affiliated with another CDC. To clarify how affiliation would be determined, SBA is adding the phrase ''as determined in accordance with 121.103'' to this provision. SBA would not expect that contracts between CDCs that are for limited services would give rise to affiliation under section 121.103 and be prohibited by this provision. The question of whether a contract for more extensive services would give rise to affiliation would depend on the specific facts presented by that contract and would need to be determined by SBA on a case-by-case basis.

With respect to this provision's prohibition on a CDC directly or indirectly investing in or financing another CDC, some commenters suggested that SBA allow a CDC to so invest in or finance another CDC with SBA's prior written approval. SBA agrees with this recommendation and is amending this provision to so provide.

As discussed above, to complete the consolidation of the provisions related to CDC affiliation in § 120.820, SBA is moving the provision set forth in § 120.852(b), which prohibits a CDC from investing directly or indirectly in an SBIC, to § 120.820 as paragraph (f). Finally, SBA has made additional edits throughout the section for clarification purposes.

4. Section 120.822 CDC Membership

SBA proposed eliminating the membership requirement for CDCs. Most commenters who submitted comments on this provision expressed support for this change because they believe that maintaining membership is unproductive for the CDC. Several commenters who opposed the change did so on three bases, including that members were a valuable resource to CDCs providing them with insight into local communities, that 501(c)(6) organizations, such as some CDCs, were required by the IRS to be membership based, and that not requiring membership in each state where a CDC is located may encourage the expansion of more CDCs into a state, resulting in a dilution of the pool of small business applicants within the state.

SBA notes that there is nothing in the regulations as proposed that would preclude CDCs from deciding to have a membership. If the organization is required by the IRS to have members, or if for some other reason it chooses to have members, the CDC may do so. SBA is simply removing the requirement that a CDC have a membership. SBA also notes that the same concern about the pool of small business applicants being diluted was raised when SBA allowed CDCs to expand their Area of Operations within an entire State, and this concern has not been realized. In addition, the concern regarding the need for a connection to the local community will continue to be addressed by the requirements that a multi-state CDC create loan committees in each State in which the CDC operates and that loan committee members must live or work in the Area of Operations of the State where the 504 project they are voting on is located unless the project falls under

one of the exceptions listed in § 120.839. The final rule, therefore, removes section 120.822, as proposed.

5. Section 120.823 CDC Board of Directors

SBA received many comments on Section 120.823, in which SBA proposed several changes with respect to the requirements that apply to the CDC Board of Directors.

Section 120.823(a) primarily addresses the size of the Board and areas of expertise for directors. SBA proposed to require that the size of the CDC Board of Directors be no fewer than 11 and no more than 25 members; that the Board have directors with background and expertise in internal controls, risk management, commercial lending, legal issues related to commercial lending and corporate governance; and that the CDC Board have at least one director from the economic, community or workforce development field and two directors that are representatives from the commercial lending field. In addition, the rule proposed to permit the directors to be either active in or retired from their fields.

Many commenters opposed the limitation of the Board size from 11–25 both on the basis that the lower limitation was too high and that the higher limitation was too low. After considering the comments, SBA has determined that it will amend this provision to lower the minimum number from 11 to 9, and will also allow CDCs to request SBA's approval to have fewer than 9 directors. Some commenters expressed a legitimate concern that CDCs in rural or isolated communities may have difficulty in finding people to serve and may have other valid reasons that would justify having fewer directors. SBA will also give CDCs the flexibility to create a Board with more than 25 directors by revising the rule to reflect that the upper number of 25 is not a requirement but a recommendation.

A majority of the commenters who submitted comments on this provision supported the rule's minimum requirements regarding the background and expertise of directors, but some requested clarification as to whether one director could have more than one area of expertise. Certainly, a director may have a background in more than one area and, thus, be qualified as an expert in more than one area. Commenters opposed to the rule argued that CDCs may obtain any expertise needed through professional services contracts. SBA believes, however, that it is important that these areas of expertise be represented on the Board. All commenters supported allowing retired individuals to represent the fields from which they are retired. SBA is adopting this provision as proposed with the exception of changing the Board size requirements as described above.

With respect to section 120.823(b), many commenters supported the requirement proposed by SBA to increase the number of Board members with commercial lending experience (other than the CDC manager) from one to two. Commenters opposed to this requirement expressed concern that it would be difficult to find more than one commercial lender to sit on the Board. However, SBA believes that Board members with commercial lending experience add the necessary expertise for approving loans.

Other commenters opposed to this requirement stated that two members with such expertise would be insufficient for the Board. However, a CDC is not restricted to having only two members with commercial lending experience. A CDC may have more such members, so long as the number is less than 50% of the representation on the Board. Indeed, in order to comply with the voting requirements, a CDC may need to have more than two such directors if one of the directors must recuse him or herself from the vote. SBA is adopting this provision as proposed.

With respect to section 120.823(c), most commenters supported the proposed requirement that the CDC Board of Directors meet at least quarterly and be responsible for any actions of the CDC and any committees established by the Board. One CDC commenter opposed the language because its Board meets monthly. However, there is nothing in the regulation to prohibit the Boards of Directors from meeting more frequently, and SBA is adopting the introductory clause of section 120.823(c) as proposed.

In section 120.823(c)(1), SBA proposed that no CDC staff member except the CDC manager could be a voting member of the CDC Board. SBA received no comments regarding paragraph (c)(1), and is adopting the paragraph as proposed.

With respect to section 120.823(c)(2), SBA proposed to require that a CDC set a quorum of not less than 50% of the Board of Directors. The majority of the commenters supported the changes to this provision, but there was a single request for modifying the requirement for a quorum to 40%. However, SBA believes that a 50% quorum is standard business practice, and is adopting this paragraph as proposed.

With respect to section 120.823(c)(3), all of the comments supported the proposed change, which would permit the attendance at meetings through any format permitted by state law. This provision recognizes that there are now methods for meeting other than being physically present, and SBA is adopting this paragraph as proposed.

With respect to section 120.823(c)(4), most of the comments received in response to this provision supported SBA's proposal to limit the number of directors in the commercial lending field to less than 50% of the Board of Directors. Some requested that SBA raise the percentage to 60 or 67%. One commenter opposing the change stated that commercial lenders are especially well-qualified to serve on a CDC Board and should comprise a larger percentage of the Board. While SBA understands the commenters' points of view, SBA believes that CDCs will be better served by having a more diverse Board not dominated by commercial lenders and is adopting this paragraph as proposed.

With respect to section 120.823(c)(5), SBA proposed to limit the ability of an outside entity to control a CDC's Board by restricting a single entity's representation on the Board to one member. The majority of the commenters was opposed to or requested modification of this paragraph based primarily upon their mistaken interpretation that this provision would prohibit any member of the CDC's Board of Directors from serving on the Board of any other entity. SBA does not intend for this provision to have that effect, but to only prohibit more than one member of the CDC's Board of Directors to be employed by or serve on the Board of Directors of any other single entity (including the entity's affiliates). SBA is revising this provision to clarify this intent.

In addition, one commenter expressed concern that paragraph (c)(5) would prohibit more than one board member of a CDC from serving on the board of the same civic organization, such as a Rotary Club. However, SBA has no objection to more than one board member serving on the same board of a civic, charitable, or comparable entity, provided the entity is not involved in financial services or economic development activities. SBA is amending the rule to clarify this intention. SBA is also making a technical change to clarify that no CDC Board member may serve on the Board of another CDC, in accordance with current § 120.851(b).

With respect to section 120.823(d), SBA proposed to require that the Board be responsible for ensuring that the

structure and operation of the CDC comply with SBA's Loan Program Requirements. In paragraphs (d)(1) and (2), SBA proposed to require that the Board be responsible for setting the mission and hiring, firing, supervising and evaluating the CDC manager. To emphasize the fiscal responsibility of the Board as it relates to salaries, paragraph (d)(3) explicitly outlines the duties of the Board to set salaries for the CDC manager and to review all other salaries to provide greater transparency and accountability. SBA would require that a Report on Compensation be included in the Annual Report (see proposed § 120.830). SBA also proposed in paragraph (d)(4) to provide the CDC with flexibility in determining whether to have committees, but addressed the requirements for Executive and Loan Committees, if established.

Many commenters expressed overall support for paragraphs (d)(1)–(4). A few commenters requested modification or clarification and expressed concern that these paragraphs, generally, placed too much responsibility on the Board of Directors. For example, section 120.823(d)(3) requires that the Board set the CDC manager's salary and review all other salaries, and one commenter suggested that this regulation would require the Board to set all salaries. However, this provision only requires that the Board set the salary for the CDC manager and review the salaries set by that manager. Moreover, the Board of Directors of an organization is generally responsible for all actions of that organization.

In addition, in response to the comments that expressed concern about the need for CDCs to maintain a connection to the local community, SBA is revising section 120.823(d)(4)(ii) to include a new paragraph (E) that retains the current requirement that the Loan Committee consist of members who live or work in the Area of Operations of the State where the 504 project they are voting on is located unless the project falls under one of the exceptions listed in § 120.839.

No specific comments were submitted as to paragraphs 120.823(d)(5)–(9). With respect to section 120.823(d)(5), SBA proposed to require that the Board ensure that the CDC's expenses are reasonable and customary, and in section 120.823(d)(6), SBA proposed to require the Board to hire an independent auditor to provide financial statements in accordance with the Loan Program Requirements.

The proposed provisions in paragraphs (d)(7) and (8) emphasize the requirement that the Board monitor the portfolio and review the semiannual status report from the CDC to ensure that the Board provides appropriate oversight of the CDC's portfolio. SBA proposed to add requirements in paragraph (d)(9) that the Board ensure that the CDC establish and maintain adequate reserves to enable the CDC to operate.

SBA is adopting paragraphs 120.823(d)(1)–(9) as proposed.

With respect to section 120.823(d)(10), SBA proposed to require the Board to approve all investments over $2,500. Most commenters opposed or requested modification to this paragraph. The commenters expressed concern that the amount was too low and suggested that when the Board approves the budget, it approves each investment. Other CDCs commented that they have other loan programs where they manage loan funds in which almost every action would involve funds of over $2,500. After review, SBA agrees with the suggestion and is amending the regulation to provide that the Board must approve each CDC investment; however, if the investment is included in the CDC's budget, the Board's approval of the budget may be deemed approval of the investment. If the investment is not included in the budget, the Board must separately approve the investment.

With respect to section 120.823(d)(11), SBA proposed to require that the Board establish a policy in the Bylaws of the CDC prohibiting an actual or apparent conflict of interest, and enforce such policy. Most commenters supported the policy, but one was opposed based upon the fact that the CDC did not want to be mandated to use a federal definition of ''conflict of interest.'' Several other CDCs recommended that SBA not require the policy to be placed in the Bylaws. SBA did not specifically define ''conflict of interest'' in this section, but at a minimum the CDC's Bylaws must meet the standards of 13 CFR 120.140. The Bylaws of a corporation are drawn to regulate its management and internal affairs, and it is the Agency's belief that a conflict of interest policy is properly included in the Bylaws. SBA is adopting this paragraph as proposed.

With respect to 120.823(d)(12) and (13), SBA proposed to require the Board to retain accountability for the actions of the CDC, and establish internal control policies in accordance with 13 CFR 120.826. A majority of the commenters supported these policies. One commenter expressed concern that the requirement to establish internal controls required the CDC to hire an outside consultant to monitor internal controls of the CDC. It does not. The regulation requires that the Board establish the policy. This is not a new requirement as the requirement is fully described in the current regulation at 13 CFR 120.826(b), but is added here to consolidate all of the Board requirements in one section. SBA is adopting paragraphs (12) and (13) as proposed.

With respect to section 120.823(d)(14), SBA proposed to require that the Board establish commercially reasonable loan approval policies, procedures and standards, and include in its Bylaws a credit approval process and any delegations to an Executive Committee or Loan Committee. The majority of commenters opposed the requirement that the credit approval process be set forth in the CDC's Bylaws. SBA has considered these comments and agrees that it would be sufficient to allow the CDC to set forth the credit approval process in a loan policy manual. SBA is amending the proposed rule to reflect these changes.

Two of those opposed also objected to the requirement contained in (d)(14) that the Board ratify or approve loans over a certain dollar amount. SBA believes that it is the Board's responsibility to do so and that the requirement is reasonable and appropriate; therefore, SBA is not changing the approval requirement.

With respect to section 120.823(d)(15), SBA proposed to require that Board members certify annually that they have read and understand Section 120.823 of this regulation. Many commenters supported the paragraph, and some requested modification to either permit a separate governance committee to make the certification or to permit Board members to take training instead. Several commenters opposed the requirement as being too onerous. SBA does not agree with the commenters. Training would be more expensive and time-consuming for the Board members than reading this section of the regulation and signing a certification that they have done so. SBA believes that the annual certification by all Board members that they have read and understand section 120.823 is important and is adopting paragraph (d)(15) as proposed.

With respect to section 120.823(e), SBA proposed to require that CDCs maintain Directors' and Officers' Liability and Errors and Omission insurance in the amount of at least $5,500,000 (in the aggregate and for each occurrence) with a deductible of not more than $50,000. SBA invited comments on the amounts of both the insurance and the deductible. No commenters fully supported the

requirement. Twenty-eight CDCs (or 11% of all CDCs), submitted comments on this issue and expressed a concern that this proposed provision would increase the cost of insurance. Some commenters felt that the financial burden on the CDCs was too great because increasing the insurance coverage as required would triple their premiums. One commenter indicated that, while he supported the requirement for insurance, he would recommend that a fee be added to the debenture to cover the cost. Others suggested that there be flexibility as to the deductible, that the amount be left to the Board, or that the amount be based upon portfolio size.

In proposing this insurance requirement that would apply to all CDCs, SBA's intent is to address the higher risks associated with the statutory increases in the 504 loan amounts of up to $5 million for each small business concern and $5.5 million for certain projects. As a result of these higher amounts, a CDC's loan volume may increase, which is expected to result in an increase in the processing and servicing fees collected by CDCs that will offset any new costs associated with this new insurance requirement. However, after considering all of the comments, SBA has determined that not all CDCs may need to have insurance coverage of $5.5 million per occurrence and in the aggregate per year SBA agrees that the amount of insurance should generally correspond to the size of a CDC's portfolio. SBA intends to consult with CDCs and their representatives, as well as insurance underwriters, in developing the appropriate amounts of insurance required. These amounts will not exceed the amount of insurance proposed by SBA in the proposed rule and will not be less than $1 million. Further guidance on CDC insurance requirements will be in the next update to SOP 50 10 after the final rule is effective.

Finally, several commenters expressed concern regarding the effective date of the changes in section 120.823 and that CDCs would need time to implement the changes. SBA agrees and is delaying the effective date of the changes made to section 120.823 until 12 months after the date of publication in the **Federal Register**, at which time CDCs must be in compliance with this section. In the interim, CDCs must continue to comply with the requirements set forth in current section 120.823.

6. Section 120.830 Reports a CDC Must Submit

SBA proposed to revise the requirements with respect to the reports that a CDC must submit to SBA. In section 120.830(a), SBA proposed to require that a CDC submit with its Annual Report its most recent Federal tax return; audited or reviewed financial statements, as appropriate; a report on compensation of any current or former officer, director, employee or independent contractor who received compensation during the covered period of more than $100,000; written certification from each of its Directors that each has read and understands the requirements of 13 CFR Section 120.823; and a report on investments in economic development activities in each state in which it has a loan.

Commenters generally supported the requirements. One commenter noted that the IRS Form 990 includes information on compensation for employees earning more than $100,000 year. SBA agrees that the submission of the IRS Form 990 would satisfy this reporting requirement. Non-profit CDCs that have not yet completed the IRS Form 990 for their last tax year, or for-profit CDCs that are not required by the IRS to file the IRS Form 990, may submit the information in any format as long as it includes all of the information with respect to employee compensation that would be found on the IRS Form 990. One commenter indicated SBA could obtain the requested information by searching for the IRS Form 990 on-line, but the on-line version is often one to two years old and is not acceptable. Another recommended that SBA modify the report on compensation to require the CDC to report any compensation that CDC employees earning more than $100,000 per year receive not only from the CDC, but also from any outside source. However, even if a CDC had sufficient information to report on the outside compensation received by its employees, SBA is primarily interested in the compensation that CDC employees receive from the CDC, not outside sources. SBA would expect, however, the CDC to provide information on the compensation that CDC directors, officers or employees receive from ''related organizations'' to the CDC, as required to be reported on the IRS Form 990.

In addition, one commenter suggested that any reimbursement for expenses that the employee receives that the IRS does not include as compensation (''accountable expenses'') should not be reported as income for SBA purposes. The commenter observed that the IRS Form 990 would not include any accountable expenses. SBA agrees that expenses not reportable as compensation to the IRS may be excluded from the CDC's report on compensation.

Finally, with respect to section 120.830(a)(4), several commenters supported the proposed requirement that the report include the economic development investments made in each state in which the CDC has an outstanding loan, but requested clarification with respect to what would constitute economic development. SBA notes that economic development investment in the community could take many forms including, but not limited to, investment in a foundation established for economic development, direct investment through other loan programs in the community, or investment in other economic development entities. SBA would expect the investment report to include each investment by type and amount. SBA is adopting section 120.830 as proposed.

7. Section 120.835 Application To Expand an Area of Operation

SBA proposed eliminating the requirement that a CDC have membership in each state in a Multi-State expansion since the proposed revisions to Section 120.822 make membership optional. A majority of the commenters supported this change. Those opposed expressed the opinion that membership in an area the CDC serves gives it a stronger relationship with each state in a CDC's Area of Operations. In addition, some of the commenters opposed felt that eliminating the requirement for membership in each state would make it easier for a CDC to move into a contiguous state which would dilute the pool of potential projects within each state. As discussed above under section 120.822, similar arguments were made when CDCs were allowed to operate statewide for projects, and that has not proven to be the case. Further, SBA is retaining the requirements in current sections 120.835(c)(3) and 120.823(a) and (b), which together require a multi-state CDC to have a loan committee in each State into which it expands that meets local membership requirements. SBA is adopting this section as proposed.

8. Section 120.852 Restrictions Regarding CDC Participation in the Small Business Investment Company (SBIC) Program and the 7(a) Loan Program

As discussed above, SBA is removing and reserving section 120.852, and moving its content to section 120.820.

9. Section 120.920 Required Participation by the Third Party Lender, and Section 120.925 Preferences

SBA proposed to revise section 120.920 to provide that if a Third Party Lender requires a lien on collateral in addition to the Project Property, the Third Party Lender, in the event of liquidation, must first apply the proceeds from the sale of such additional collateral to the balance on the Third Party Lender's loan. SBA believes that this change could increase recoveries on the 504 loan. Commenters were generally supportive of this change. Some commenters requested that SBA clarify that the Third Party Lender does not have to liquidate collateral that either no longer exists or has no recoverable value. However, this language is in the Third Party Lender Agreement signed by the Third Party Lender, and so there is no need to amend the regulation.

Commenters were also generally supportive of SBA's proposal to eliminate section 120.925 regarding Preferences. However, one commenter was opposed to the elimination of this provision, arguing that the Lender should not be permitted to have any type of Preference. A Preference is defined as ''any arrangement giving a Lender or a CDC a preferred position compared to SBA relating to the making, servicing, or liquidation of a business loan with respect to such things as repayment, collateral, guarantees, control, maintenance of a compensating balance, purchase of a Certificate of deposit or acceptance of a separate or companion loan, without SBA's consent.'' See § 120.10 (Definition of ''Preference''). SBA recognizes that there are other types of security that the Third Party Lender could obtain for its loan in addition to a lien on additional collateral, such as a guaranty or other arrangements for repayment, and that the Third Party Lender should be required to comply with proposed section 120.920 for this collateral or security as well. Accordingly, SBA is revising section 120.920 to apply the requirements of section 120.920 to any type of collateral or security that the Third Party Lender obtains.

In addition, one commenter requested clarification as to the timing of the sale of the collateral by the Third Party Lender. Under the proposed regulation, the proceeds of any collateral held in addition to the Project Property must be applied to the Third Party Lender's debt prior to the proceeds of the Project Property. SBA agrees that clarification would be helpful and is amending the final rule to require that, unless otherwise approved in writing by SBA, the Third Party Lender liquidate, or otherwise exhaust all reasonable avenues of collection with respect to, the additional collateral or other security no later than the disposition of the Project Property, and to apply any proceeds received as a result of such Additional Collateral to the balance outstanding on the Third Party Loan prior to the application of proceeds from the disposition of the Project Property to the Third Party Loan.

D. Section 120.882(a)—The ''9-Month Rule'' (Applies to 504 Loan Program Only)

With respect to section 120.882(a), SBA proposed to eliminate paragraph (a)(2) of this section which limits Project expenses eligible for 504 Loan Program financing to those incurred within 9 months prior to receipt by SBA of a complete loan application. As explained in the proposed rule, SBA intends for this change to permit financings of expenses toward a Project regardless of when they were incurred, so long as they are directly attributable to the Project. SBA also observed that there may be circumstances when an applicant might incur short term debt to cover expenses directly attributable to a Project that is eligible for financing under the 504 Loan Program. As stated in the proposed rule, SBA believes that determining whether an expense has been incurred by an applicant for a 504 project requires a fact specific analysis which appropriate agency personnel need to make regardless of when the expense was incurred.

All commenters expressed support for this change with one comment seeking clarification as to whether long-term debt could be included in a 504 project. Historically, the 504 Loan Program did not include debt refinancing except in the limited circumstance where the debt was ''directly attributable'' to the Project and incurred within certain time limitations. For example, under current SBA policy, the 504 loan may refinance short term debt (known as ''bridge financing'') on the Project land as long as the financing is for a term of 3 years or less. See SOP 50 10 5(F), Subpart C, Chapter 2, Paragraph III.H.4.(a)(2)(b). More recently, the 504 Loan Program was authorized to also permit refinancing of debt unrelated to the Project so long as the Project involved expansion of a small business concern (120.882(e)) and, on a temporary basis, the refinancing of certain debt with no business expansion required (120.882(g), the authority for which has expired). Accordingly, the only type of debt that SBA permits to be financed other than under § 120.882(e) is ''bridge financing'' that is directly attributable to the Project, and the elimination of the 9-month rule is not intended to change this policy. SBA will continue to determine whether expenses incurred prior to application were in fact incurred for a 504 Project. SBA is adopting this provision as proposed.

Compliance With Executive Orders 13563, 12866, 12988, and 13132, the Paperwork Reduction Act (44 U.S.C. Ch. 35), and the Regulatory Flexibility Act (5 U.S.C. 601–612)

Executive Order 13563 and Executive Order 12866

The Office of Management and Budget (OMB) has determined that this final rule is a ''significant'' regulatory action for the purposes of Executive Order 12866. Accordingly, the next section contains SBA's Regulatory Impact Analysis. However, this is not a major rule under the Congressional Review Act, 5 U.S.C. 800.

Regulatory Impact Analysis

SBA provided a detailed Regulatory Impact Analysis in the Proposed Rule. No 7(a) lenders commented on costs, though several CDCs submitted comments on increased program costs. SBA anticipates the 504 program changes will have minimal impacts on costs to CDCs, including increased costs in the program for corporate governance, reporting or increased insurance, but may also result in an increase in the CDC's processing and servicing fee income. SBA anticipates no impact on small entities as a result of grandfather clauses in the final rule. Twenty-eight (28) or 11% of CDCs expressed a concern under 120.823(e) about the increased cost of insurance as proposed. SBA concurs with the CDC comments that portfolio size should be considered and SBA should develop a sliding scale for insurance costs. SBA will coordinate with CDCs and their representatives and insurance underwriters when establishing the insurance scale, which will be presented in the next update to SOP 50 10 after the Final Rule is effective. Due to the increase in the 504 debenture size to $5.5 million for energy public policy and manufacturing projects, SBA

proposed increasing the insurance requirements for all CDCs. A large CDC did not anticipate an increase in cost, due to its current insurance level. Currently, only those CDCs that are in the Accredited Lenders Program (ALP) have been required to have insurance of up to $1 million. For FY 12, there were an estimated 85 ALP CDCs, or 33%, that are insured and 175 non-ALP CDCs, or 67%, which are not currently required to have insurance by SBA. SBA estimates that the changes to the eligibility requirements may increase the number of 504 loans a CDC processes and, therefore, may increase processing and servicing fee income by potentially 5–10% per CDC in the first year after the Final Rule is effective, with an overall average of a 8% rate for the national portfolio overall in the first year. As a sample, SBA reviewed the insurance and fees of a large, medium and small CDC that commented on increased insurance costs in comparison to anticipated fee income. The proportional costs of insurance as compared to the expected increase in processing and servicing fees appears to further justify a sliding scale of insurance costs based on a CDC's portfolio size.

Five, or 2% of, CDCs expressed concerns under section 120.823(d)(6) that there would be increased cost to a CDC for independent loan reviews. SBA provided clarification language to address these concern. CDCs are not required to hire independent loan reviewers, and may comply by using independent loan reviewers who are internal to the CDC as long as they are independent of the loan approval process.

Two CDCs commented that anticipated CDC costs would increase by requiring the board to oversee investments over $2,500. SBA addressed this concern by clarifying that this oversight is part of the CDC's budget and financial review process.

SBA received two cost comments under section 120.102, both of which referenced potential cost impacts to the SBA as a result of the elimination of the personal resources test. One comment stated this change would lower the costs to SBA. The other comment expressed a concern that costs would increase for SBA. SBA estimates this rule change will not impact the cost of program administration.

SBA received comments under sections 121.103 and 121.302 expressing concern that the proposed affidavit as to affiliation was too complicated and could result in increased costs to the borrower. As indicated above, SBA has decided to further study the affiliation issue and is not finalizing any changes to the affiliation standards at this time.

One CDC expressed a concern about increased travel expenses due to an increase in frequency of CDC board meetings. SBA has also proposed to allow CDCs to meet via conference call and web conference to the extent permitted by State law, which should minimize compliance costs for CDCs.

One CDC expressed concern under sections 120.823(d)(12) and (d)(13) that the CDC would need to hire a consultant to develop and oversee internal controls for their CDC. One CDC expressed concern under section 120.823(d)(5) that it is cost prohibitive for smaller CDCs to provide audited financial statements. Smaller CDCs are only required to provide reviewed financial statements, not audited financial statements.

Executive Order 13563

A description of the need for this regulatory action and benefits and costs associated with this action, including possible distributional impacts that relate to Executive Order 13563, were included in the Regulatory Impact Analysis under Executive Order 12866 that was published with the proposed rule. 78 FR 12633.

SBA's two primary business loan programs operate through the agency's lending partners, which are 7(a) Lenders and CDCs. The agency has held public forums and meetings which allowed it to reach hundreds of its lending partners and gain valuable insight, guidance, and suggestions from many of them and the trade associations which represent many of them. The agency's outreach efforts to engage stakeholders before proposing this rule were extensive.

Executive Order 12988

This action meets applicable standards set forth in Sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden. The action does not have retroactive or preemptive effect.

Executive Order 13132

SBA has determined that this final rule will not have substantial, direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, for the purposes of Executive Order 13132, SBA has determined that this final rule has no federalism implications warranting preparation of a federalism assessment.

Paperwork Reduction Act, 44 U.S.C., Ch. 35

The SBA has determined that this final rule imposes additional reporting and recordkeeping requirements, which will result in amendments to the existing information collections identified below. SBA solicited public comments on these amendments when the proposed rule was published. SBA proposed to amend the currently approved CDC Annual Report to require CDCs to report on executive compensation and economic development projects, and to submit a copy of the CDC's tax return. The rule also proposed to require each CDC director to certify, as part of the CDC Annual Report, that he or she has read and understands the requirements set forth in 13 CFR § 120.823. Finally, SBA proposed to make changes to the governance of CDC membership; composition of CDC board of directors and to increase insurance coverage.

As a result of these new requirements, SBA has amended the following information collections:

1. *Title and Description of Information Collection:* The Certified Development Company (CDC) Annual Report Guide (SBA Form 1253) provides instructions to assist the CDC in preparing and submitting its Annual Report, which provides information to SBA on economic development, and the CDC's financial condition, operations and employment impact. *OMB Control Number:* 3245–0074.

Description of and Estimated Number of Respondents: All CDCs must provide an annual report. Currently there are approximately 260 CDCs. There is 1 report per respondent. The burden estimate takes into consideration the fact that respondents keep the information requested in the ordinary course of business.

Estimated Number of Responses: 260.

Estimated Time per Response: SBA estimates the time needed to complete this collection will average 28 hours per report.

Total Estimated Hour Burden: 260 × 28 hours = 7,280 total annual burden hours. This is 168 hours less than the current OMB inventory (7,488) as there are fewer CDCs than the last burden hour estimate for this collection.

Since proposing changes to these information collections, SBA has revised SOP 50 10, one of the Standard Operating Procedures (SOP) governing the 7(a) and 504 loan programs. Some of the amendments to the SOP will result in additional changes to SBA Forms 1919 and 1920, SBA Form 1244, and SBA Form 1253 and will result in the

elimination of SBA Forms 4, 4–I and Form 4 Schedule A . The SOP changes do not affect SBA Forms 2233 and 2234. SBA published notice in the **Federal Register** soliciting public comments on these SOP-related changes. See, 78 FR 53816 (August 30, 2013) and 78 FR 54362 (September 3, 2013); no comments were received from the public on the changes brought about by the revised SOP. SBA has submitted the forms, as revised to reflect the SOP changes, to OMB for review and approval, and will make them available on the Agency's Web site at *www.sba.gov* soon after obtaining OMB's approval. After this final rule becomes effective, SBA will repost the forms as revised to conform to changes made by this final rule.

Regulatory Flexibility Act, 5 U.S.C. 601–612

When an agency issues a rulemaking, the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612, requires the agency to ''prepare and make available for public comment a final regulatory analysis'' which will ''describe the impact of the final rule on small entities.'' Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the rulemaking is not expected to have a significant economic impact on a substantial number of small entities. Although the rulemaking will impact all of the approximately 4,500 7(a) Lenders (some of which are small) and all of the approximately 260 CDCs (all of which are small), SBA does not believe the impact will be significant. The grandfathering clauses in the final rule will not have an impact on small entities. As provided previously in the cost analysis in the Regulatory Impact Analysis (RIA), CDCs provided comments on the concern on increased costs in insurance, board travel for meetings and independent loan reviews. No 7(a) lenders comments on increased costs. Information about the economic impact of this rulemaking can be found in the RIA. As stated above, the final rule will expand access to the business loan program but this will not increase the burden of the agency's lending partners because they choose their own level of program participation (i.e., 7(a) Lenders and CDCs are not required to process more loan applications simply because more small businesses are eligible to apply for a business loan). For those CDCs and lenders that process more businesses loans, the benefit of the increase in revenue will far exceed any increased burden. In addition, the elimination of certain program participation requirements would not have a substantial economic impact or cost on the small business borrower, lender or CDC.

In addition, in response to the comments that expressed concerns about increased costs in insurance, SBA will develop a sliding scale for insurance coverage to address CDC concerns of increased insurance coverage to mitigate the potential of increased costs. To address the concerns about the increased costs of board travel for meetings and independent loan reviews, SBA's final rule has provisions for web-conference and teleconference meetings that would mitigate CDCs costs of board meeting traveling to meetings. CDCs are not required to hire independent loan reviewers outside the CDC, as the independent loan review may be internal to the CDC as long as the reviewer is independent of the loan approval process. These changes should mitigate any increase in costs that may be associated with this rulemaking.

SBA believes that this final rule is SBA's best available means for facilitating American job preservation and creation by removing unnecessary regulatory requirements. Since the main purpose of this final rule is to reduce unnecessary regulatory burdens and program eligibility criteria, a review of the preamble sections above will provide additional detailed explanations regarding how and why this final rule reduces regulatory burdens and responsibly increase program participation flexibility. For these reasons, SBA has determined that there is no significant impact on a substantial number of small entities.

List of Subjects in 13 CFR part 120

Community development, Equal employment opportunity, Loan programs—business, Reporting and recordkeeping requirements, Small business.

For the reasons stated in the preamble, SBA amends 13 CFR part 120 as follows:

PART 120—BUSINESS LOANS

■ 1. The authority for 13 CFR part 120 continues to read as follows:

Authority: 15 U.S.C. 634(b)(6), (b)(7), (b)(14), (h) and note, 636(a), (h) and (m), 650, 687(f), 696(3) and 697(a) and (e); Pub. L. 111–5, 123 Stat. 115, Pub. L. 111–240, 124 Stat. 2504.

§ 120.102 [Removed]

■ 2. Remove § 120.102.

§ 120.820 [Redesignated as § 120.816]

■ 3. Redesignate § 120.820 as § 120.816.

■ 4. Add § 120.818 to read as follows:

§ 120.818 Applicability to existing for-profit CDCs.

Unless expressly provided otherwise in the regulations, any Loan Program Requirement that applies to non-profit CDCs also applies to for-profit CDCs.

■ 5. Add new § 120.820 to read as follows:

§ 120.820 CDC Affiliation.

(a) A CDC must be independent and must not be affiliated (as determined in accordance with § 121.103 of this chapter) with any Person (as defined in § 120.10) except as permitted under this section.

(b) A CDC may be affiliated with an entity (other than a 7(a) Lender or another CDC) whose function is economic development in the same Area of Operations and that is either a non-profit entity or a State or local government or political subdivision (e.g., council of governments).

(c) A CDC must not be affiliated (as determined in accordance with § 121.103) with or invest, directly or indirectly, in a 7(a) Lender. A CDC that was affiliated with a 7(a) Lender as of November 6, 2003 may continue such affiliation.

(d) A CDC must not be affiliated (as determined in accordance with § 121.103 of this chapter) with another CDC. In addition, a CDC must not directly or indirectly invest in or finance another CDC, except with the prior written approval of D/FA or designee and D/OCRM or designee if they determine in their discretion that such approval is in the best interests of the 504 Loan Program.

(e) A CDC may remain affiliated with a for-profit entity (other than a 7(a) Lender) if such affiliation existed prior to March 21, 2014. A CDC may also be affiliated with a for-profit entity (other than a 7(a) Lender) whose function is economic development in the same Area of Operations with the prior written approval of the D/FA or designee if he or she determines in his or her discretion that such approval is in the best interests of the 504 Loan Program.

(f) A CDC must not directly or indirectly invest in a Licensee (as defined in § 107.50 of this chapter) licensed by SBA under the SBIC program authorized in Part A of Title III of the Small Business Investment Act, 15 U.S.C. 681 et seq. A CDC that has an SBA-approved investment in a Licensee as of November 6, 2003 may retain such investment.

§ 120.822 [Removed]

■ 6. Remove § 120.822.

■ 7. Revise § 120.823 to read as follows:

§ 120.823 CDC Board of Directors.

(a) The CDC, whether for-profit or nonprofit, must have a Board of Directors with at least nine (9) voting directors. A CDC may request the approval of the D/FA or designee to have a Board with fewer directors than 9 for good cause. SBA recommends that the CDC create a Board with no more than 25 voting directors. The Board must be actively involved in encouraging economic development in the Area of Operations. The initial Board may be created by any method permitted by applicable State law. At a minimum, the Board must have directors with background and expertise in internal controls, financial risk management, commercial lending, legal issues relating to commercial lending, and corporate governance. Directors may be either currently employed or retired. A CDC must have at least one voting director that represents the economic, community or workforce development fields, and at least two voting directors that represent the commercial lending field.

(b) At least two voting members of the Board of Directors, other than the CDC manager, must possess commercial lending experience satisfactory to SBA. When the Board votes on SBA loan approval or servicing actions, at least two voting Board members, with such commercial lending experience, other than the CDC manager, must be present and vote.

(c) The Board of Directors must meet at least quarterly and shall be responsible for the actions of the CDC and any committees established by the Board of Directors. In addition, the Board of Directors is subject to the following requirements:

(1) Except for the CDC manager, no person on the CDC's staff may be a voting director of the Board;

(2) A quorum must be present to transact business. The quorum shall be set by the CDC but shall be no less than 50% of the voting members of the Board of Directors;

(3) Attendance at meetings may be through any format permitted by State law;

(4) Directors from the commercial lending fields must comprise less than 50% of the representation on the Board; and

(5) A CDC may not permit more than one of its Directors to be employed by or serve on the Board of Directors of any other single entity (including the entity's affiliates), unless that entity is a civic, charitable, or comparable organization that is not involved in financial services or economic development activities. No CDC Board member may serve on the Board of another CDC in accordance with § 120.851(b).

(d) The Board shall have and exercise all corporate powers and authority and be responsible for all corporate actions and business. There must be no actual or appearance of a conflict of interest with respect to any actions of the Board. The Board is responsible for ensuring that the structure and operation of the CDC, as set forth in the Bylaws, comply with SBA's Loan Program Requirements. The responsibilities of the Board include, but are not limited, to the following:

(1) Approving the mission and the policies for the CDC;

(2) Hiring, firing, supervising and annually evaluating the CDC manager;

(3) Setting the salary for the CDC manager and reviewing all salaries;

(4) Establishing committees, at its discretion, including the following:

(i) *Executive Committee.* To the extent authorized in the Bylaws, the Board of Directors may establish an Executive Committee. The Executive Committee may exercise the authority of the Board; however, the delegation of its authority does not relieve the Board of its responsibility imposed by law or Loan Program Requirements. No further delegation or redelegation of this authority is permitted. If the Board establishes an Executive Committee and delegates any of its authority to the Executive Committee as set forth in the Bylaws of the CDC, the Executive Committee must:

(A) Be chosen by and from the Board of Directors from the Board; and

(B) Meet the same organizational and representational requirements as the Board of Directors, except that the Executive Committee must have a minimum of five voting members who must be present to conduct business.

(ii) *Loan Committee.* The Board of Directors may establish a Loan Committee. The Loan Committee may exercise the authority of the Board only as set forth below; however, the delegation of its authority does not relieve the Board of its responsibility imposed by law or Loan Program Requirements. If the Board of Directors chooses to establish a Loan Committee, no CDC staff or manager may serve on the Loan Committee. The Loan Committee must:

(A) Be chosen by the Board of Directors from the membership (if any), shareholders or the Board;

(B) Have a quorum of at least five (5) committee members authorized to vote;

(C) Have at least two members with commercial lending experience satisfactory to SBA; and

(D) Have no actual or appearance of a conflict of interest, including for example, a Loan Committee member participating in deliberations on a loan for which the Third Party Lender is the member's employer or the member is otherwise associated with the Third Party Lender; and

(E) Consist of members who live or work in the Area of Operations of the State where the 504 project they are voting on is located unless the project falls under one of the exceptions listed in § 120.839.

(5) Ensuring that the CDC's expenses are reasonable and customary;

(6) Hiring directly an independent auditor to provide the financial statements in accordance with Loan Program Requirements;

(7) Monitoring the CDC's portfolio performance on a regular basis;

(8) Reviewing a semiannual report on portfolio performance from the CDC manager, which would include, but not be limited to, asset quality and industry concentration;

(9) Ensuring that the CDC establishes and maintains adequate reserves for operations;

(10) Ensuring that the CDC invests in economic development in each of the States in its Area of Operations in which it has a portfolio, and approving each investment. If the investment is included in the CDC's budget, the Board's approval of the budget may be deemed approval of the investment. If the investment is not included in the budget, the Board must separately approve the investment;

(11) Establishing a policy in the Bylaws of the CDC prohibiting an actual conflict of interest or the appearance of same, and enforcing such policy (see § 120.140 and § 120.851);

(12) Retaining accountability for all of the actions of the CDC;

(13) Establishing written internal control policies, in accordance with § 120.826;

(14) Establishing commercially reasonable loan approval policies, procedures, and standards. The Bylaws must include any delegations of authority to the Loan Committee and Executive Committee, if either Committee has been established. In addition, the CDC must establish and set forth in detail in a policy manual its credit approval process. All 504 loan applications must have credit approval prior to submission to the Agency. The Loan Committee, if established, may be delegated the authority to provide credit approval for loans up to $2,000,000 but, for loans of $1,000,000 to $2,000,000, the Loan Committee's action must be ratified by the Board or Executive

Committee prior to Debenture closing. Only the Board or Executive Committee, if authorized by the Board, may provide credit approval for loans greater than $2,000,000.

(15) All members of the Board of Directors must annually certify in writing that they have read and understand this section, and copies of the certification must be included in the Annual Report to SBA.

(e) The Board of Directors shall maintain Directors' and Officers' Liability and Errors and Omissions insurance in amounts established by SBA that are based on the size of the CDC's portfolio and other relevant factors.

■ 8. Amend § 120.830 by revising paragraph (a) to read as follows:

§ 120.830 Reports a CDC must submit.

* * * * *

(a) An Annual Report within one hundred-eighty days after the end of the CDC's fiscal year (to include Federal tax returns for that year). A CDC that is certified by SBA within 6 months of the CDC's fiscal year-end is not required to submit an Annual Report for that year. The Annual Report must include, but is not limited to, the following:

(1) Audited or Reviewed Financial Statements as required in § 120.826(c) and (d) for the CDC and any affiliates or subsidiaries of the CDC.

(i) Audited financial statements must, at a minimum, include the following:

(A) Audited balance sheet;

(B) Audited statement of income (or receipts) and expenses;

(C) Audited statement of source and application of funds;

(D) Such footnotes as are necessary to an understanding of the financial statements;

(E) Auditor's letter to management on internal control weaknesses; and

(F) The auditor's report; and

(ii) Reviewed financial statements must, at a minimum, include the following:

(A) Balance sheet;

(B) Statement of income (or receipts) and expenses;

(C) Statement of source and application of funds;

(D) Such footnotes as are necessary to an understanding of the financial statements;

(E) The accountant's review report; and

(2) Report on compensation: CDCs are required to provide detailed information on total compensation (including salary, bonuses and expenses) paid within the CDC's most recent tax year for current and former officers and directors, and for current and former employees and independent contractors with total compensation of more than $100,000 during that period.

(3) Certification of members of the Board of Directors. Written annual certification by each Board member that he or she has read and understands the requirements set forth in § 120.823.

(4) Report on investment in economic development. Written report on investments in economic development in each State in which the CDC has an outstanding 504 loan.

* * * * *

■ 9. Amend § 120.835 by revising paragraph (c) to read as follows:

§ 120.835 Application to expand an Area of Operations.

* * * * *

(c) A CDC seeking to become a Multi-State CDC must apply to the SBA District Office that services the area within each State where the CDC intends to locate its principal office for that State. A CDC may apply to be a Multi-State CDC only if the State the CDC seeks to expand into is contiguous to the State of the CDC's incorporation and the CDC establishes a loan committee in that State meeting the requirements of § 120.823.

§ 120.852 [Removed and Reserved]

■ 10. Remove and reserve § 120.852.

■ 11. Amend § 120.882 by revising paragraph (a) to read as follows:

§ 120.882 Eligible Project costs for 504 loans.

* * * * *

(a) Costs directly attributable to the Project including expenditures incurred by the Borrower (with its own funds or from a loan) to acquire land used in the Project, or for any other expense directly attributable to the Project, prior to applying to SBA for the 504 loan;

* * * * *

■ 12. Amend § 120.920 by revising paragraph (b) to read as follows:

§ 120.920 Required participation by Third Party Lender.

* * * * *

(b) *Third party loan collateral.* The 504 loan is usually collateralized by a second lien on Project Property. The Third Party Lender may obtain additional collateral or other security for the Third Party Loan (''Additional Collateral'') only if in the event of liquidation and unless otherwise approved in writing by SBA:

(1) The Third Party Lender liquidates or otherwise exhausts all reasonable avenues of collection with respect to the Additional Collateral no later than the disposition of the Project Property, and

(2) The Third Party Lender applies any proceeds received as a result of the Additional Collateral to the balance outstanding on the Third Party Loan prior to the application of proceeds from the disposition of the Project Property to the Third Party Loan.

§ 120.925 [Removed and Reserved]

■ 13. Remove and reserve § 120.925.

Marianne O'Brien Markowitz,

Acting Administrator.

[FR Doc. 2014–06237 Filed 3–20–14; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0796; Directorate Identifier 2013–NM–111–AD; Amendment 39–17802; AD 2014–05–30]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2013–07–07 for all The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes. AD 2013–07–07 required inspecting to determine the part number of the attach pins of the horizontal stabilizer rear spar, and replacing certain attach pins. This new AD clarifies the parts installation limitation and prohibition, and adds a new requirement for certain airplanes on which certain attach pins were installed. This AD was prompted by inquiries from affected operators regarding the parts installation limitation and prohibition, and re-installation of certain attach pins that were removed for inspection. We are issuing this AD to prevent premature failure of the attach pins, which could cause reduced structural integrity of the horizontal stabilizer to fuselage attachment, resulting in loss of control of the airplane.

DATES: This AD is effective April 25, 2014.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of May 20, 2013 (78 FR 22182, April 15, 2013).

ADDRESSES: For service information identified in this AD, contact Boeing

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2013–0796; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT:

Nancy Marsh, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6440; fax: 425–917–6590; email: *Nancy.Marsh@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2013–07–07, Amendment 39–17411 (78 FR 22182, April 15, 2013). AD 2013–07–07 applied to all The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes. The NPRM published in the **Federal Register** on September 25, 2013 (78 FR 58982). The NPRM was prompted by inquiries from affected operators regarding the parts installation limitation and prohibition, and re-installation of certain attach pins that were removed for inspection. The NPRM proposed to continue to require inspecting to determine the part number of the attach pins of the horizontal stabilizer rear spar, and replacing certain attach pins. The NPRM also proposed to clarify the parts installation limitation and prohibition, and add a new requirement for certain airplanes on which certain attach pins were installed. We are issuing this AD to prevent premature failure of the attach pins, which could cause reduced structural integrity of the horizontal stabilizer to fuselage attachment, resulting in loss of control of the airplane.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comment received on the proposal (78 FR 58982, September 25, 2013) and the FAA's response to each comment.

Clarification of Effect of Winglet Installation

Aviation Partners Boeing stated that the installation of winglets per Supplemental Type Certificate (STC) ST00830SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/408E012E008616A786257888006045 6C?OpenDocument&Highlight=st00830se*) does not affect the accomplishment of the manufacturer's service instructions.

We concur. Paragraph (c)(2) in AD 2013–07–07, Amendment 39–17411 (78 FR 22182, April 15, 2013), has been restated in this final rule and specifies that STC ST00830SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/408E012E008616A7862578880060456C?OpenDocument&Highlight=st00830se*) does not affect the ability to accomplish the actions required by this final rule. Therefore, for airplanes on which STC ST00830SE is installed, a ''change in product'' alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of section 39.17 of the Federal Aviation Regulations (14 CFR 39.17).

Conclusion

We reviewed the relevant data, considered the comment received, and determined that air safety and the public interest require adopting this AD as proposed except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (78 FR 58982, September 25, 2013) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (78 FR 58982, September 25, 2013).

Costs of Compliance

We estimate that this AD affects 1,050 airplanes of U.S. registry. The new requirements add no significant economic burden over that specified in AD 2013–07–07, Amendment 39–17411 (78 FR 22182, April 15, 2013). Those costs are repeated for the convenience of affected operators, as follows:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection and attach pin replacement [actions retained from AD 2013–07–07, Amendment 39–17411 (78 FR 22182, April 15, 2013)].	39 work-hours × $85 per hour = $3,315.	Up to $6,312	Up to $9,627	Up to $10,108,350.

According to the manufacturer, some of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

Authority for This Rulemaking

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

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation

is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2013–07–07, Amendment 39–17411 (78 FR 22182, April 15, 2013), and adding the following new AD:

2014–05–30 The Boeing Company: Amendment 39–17802; Docket No. FAA–2013–0796; Directorate Identifier 2013–NM–111–AD.

(a) Effective Date

This AD is effective April 25, 2014.

(b) Affected ADs

(1) This AD supersedes AD 2013–07–07, Amendment 39–17411 (78 FR 22182, April 15, 2013).

(2) This AD affects certain requirements of AD 2004–05–19, Amendment 39–13514 (69 FR 10921, March 9, 2004; corrected April 13, 2004 (69 FR 19313)).

(c) Applicability

(1) This AD applies to all The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes, certificated in any category.

(2) Installation of Supplemental Type Certificate (STC) ST00830SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/408E012E008616A7862578880060456C?OpenDocument&Highlight=st00830se*) does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST00830SE is installed, a ''change in product'' alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.17.

(d) Subject

Air Transport Association (ATA) of America Code 55, Stabilizers.

(e) Unsafe Condition

This AD was prompted by inquiries from affected operators regarding the parts installation limitation and prohibition, and re-installation of certain attach pins that were removed for inspection. We are issuing this AD to prevent premature failure of the attach pins, which could cause reduced structural integrity of the horizontal stabilizer to fuselage attachment, resulting in loss of control of the airplane.

(f) Compliance

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

(g) Retained Part Number (P/N) Inspection

This paragraph restates the requirements of paragraph (g) of AD 2013–07–07, Amendment 39–17411 (78 FR 22182, April 15, 2013). For airplanes having line numbers 1 through 3534 inclusive: Before the accumulation of 56,000 total flight cycles, or within 3,000 flight cycles after May 20, 2013 (the effective date of AD 2013–07–07), whichever occurs later, inspect to determine the part number of the attach pins of the horizontal stabilizer rear spar. A review of airplane maintenance records is acceptable in lieu of this inspection if the part number of the attach pin can be conclusively determined from that review.

(h) Retained Replacement

This paragraph restates the requirements of paragraph (h) of AD 2013–07–07, Amendment 39–17411 (78 FR 22182, April 15, 2013). If, during the inspection required by paragraph (g) of this AD, any horizontal stabilizer rear spar attach pin has P/N 180A1612–3 or 180A1612–4, prior to the accumulation of 56,000 total flight cycles on the pin, or within 3,000 flight cycles after May 20, 2013 (the effective date of AD 2013–07–07), whichever occurs later, replace with a new attach pin having P/N 180A1612–7 or 180A1612–8, respectively, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–55–1093, dated April 9, 2012.

(i) Retained Parts Installation Prohibition

This paragraph restates the requirements of paragraph (i)(2) of AD 2013–07–07, Amendment 39–17411 (78 FR 22182, April 15, 2013). For airplanes having line numbers 3535 and subsequent: As of May 20, 2013 (the effective date of AD 2013–07–07), no person may install an attach pin of the horizontal stabilizer rear spar having P/N 180A1612–3 or 180A1612–4 on any airplane.

(j) Retained Terminating Action for AD 2004–05–19, Amendment 39–13514 (69 FR 10921, March 9, 2004; Corrected April 13, 2004 (69 FR 19313))

This paragraph restates the provisions of paragraph (j) of AD 2013–07–07, Amendment 39–17411 (78 FR 22182, April 15, 2013). Accomplishment of the actions required by paragraphs (g) and (h) of this AD terminates the requirements of paragraphs (a), (b), (c), (d), and (e) of AD 2004–05–19, Amendment 39–13514 (69 FR 10921, March 9, 2004; corrected April 13, 2004 (69 FR 19313)), for the rear spar attach pins only.

(k) New Parts Installation Limitation

For airplanes having line numbers 1 through 3534 inclusive: As of the effective date of this AD, an attach pin of the horizontal stabilizer rear spar having P/N 180A1612–3 or 180A1612–4 may be installed on an airplane, provided it is replaced with an attach pin having P/N 180A1612–7 or 180A1612–8, as applicable, prior to the accumulation of 56,000 total flight cycles on the attach pin. The replacement must be done in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–55–1093, dated April 9, 2012.

(l) New Attach Pin Replacement

For airplanes having line numbers 1 through 3534 inclusive on which an attach pin of the horizontal stabilizer rear spar having P/N 180A1612–7 or 180A1612–8 has been replaced with an attach pin having P/N 180A1612–3 or 180A1612–4 before the effective date of this AD: Prior to the accumulation of 56,000 total flight cycles on the attach pin, or within 1,000 flight cycles on the airplane after the effective date of this AD, whichever occurs later, replace the attach pin having P/N 180A1612–3 or 180A1612–4 with an attach pin having P/N 180A1612–7 or 180A1612–8, as applicable, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–55–1093, dated April 9, 2012.

(m) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (n) of this AD. Information may be emailed to *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov*.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/ certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(4) AMOCs approved previously for AD 2013–07–07, Amendment 39–17411 (78 FR 22182, April 15, 2013), are approved as AMOCs for the corresponding provisions of this AD.

(n) Related Information

For more information about this AD, contact Nancy Marsh, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6440; fax: 425–917–6590; email: *Nancy.Marsh@faa.gov*.

(o) Material Incorporated by Reference

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

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

(3) The following service information was approved for IBR on May 20, 2013 (78 FR 22182, April 15, 2013).

(i) Boeing Special Attention Service Bulletin 737–55–1093, dated April 9, 2012.

(ii) Reserved.

(4) For Boeing service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.*

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

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

Issued in Renton, Washington, on March 3, 2014.

Michael J. Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–05415 Filed 3–20–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0089; Directorate Identifier 2012–NM–166–AD; Amendment 39–17806; AD 2014–06–02]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain The Boeing Company Model 747–400 series airplanes. This AD was prompted by reports of auxiliary power unit (APU) faults due to power feeder cable chafing. This AD requires detailed inspections for damage of the APU power feeder cables; replacing the clamps and installing grommets; and related investigative and corrective actions if necessary. We are issuing this AD to detect and correct chafing of the APU power feeder cables within a flammable fluid leakage zone, which, with arcing, could result in fire and structural damage.

DATES: This AD is effective April 25, 2014.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of April 25, 2014.

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2013–0089; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Georgios Roussos, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, Seattle Aircraft Certification Office, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6482; fax: 425–917–6590; email: *georgios.roussos@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model 747–400 series airplanes. The NPRM published in the **Federal Register** on February 7, 2013 (78 FR 8999). The NPRM was prompted by reports of APU faults due to power feeder cable chafing. The NPRM proposed to require detailed inspections for damage of the APU power feeder cables; replacing the clamps and installing grommets; and related investigative and corrective actions if necessary. We are issuing this AD to detect and correct chafing of the APU power feeder cables within a flammable fluid leakage zone, which, with arcing, could result in fire and structural damage.

Relevant Service Information

Since we issued the NPRM (78 FR 8999, February 7, 2013), we reviewed Boeing Service Bulletin 747–24A2360, Revision 2, dated October 2, 2013. (The NPRM referenced Boeing Service Bulletin 747–24A2360, Revision 1, dated May 2, 2012, as the appropriate source of service information for accomplishing the required actions.) Boeing Service Bulletin 747–24A2360, Revision 2, dated October 2, 2013, among other things, revises the recommended compliance time from 14 months to 18 months. For information on the procedures and compliance times, see this service information at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2013–0089.

We have determined that extending the compliance time, as recommended by the manufacturer, will not adversely affect safety. We have revised the compliance time in paragraph (g) of this AD accordingly. We have also revised paragraphs (c), (g), (h), and (i) of this AD to refer to Boeing Service Bulletin 747–24A2360, Revision 2, dated October 2, 2013.

In addition, we have revised paragraph (j) of this final rule to include Boeing Alert Service Bulletin 747–24A2360, Revision 1, dated May 2, 2012, for credit for the actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal (78 FR 8999, February 7, 2013) and the FAA's response to each comment.

Request To Extend Compliance Time

KLM Royal Dutch Airlines (KLM) requested that we revise the compliance time of the NPRM (78 FR 8999, February 7, 2013) from 14 months to 36 months. KLM explained that due to the possible operational impact when damage is found, and since the Accomplishment Instructions of Boeing Service Bulletin 747–24A2360, Revision 2, dated October 2, 2013, are performed with electrical power removed, the recommended maintenance check to perform Boeing Service Bulletin 747–24A2360, Revision 2, dated October 2, 2013, is a C-check, and therefore 14 months is not effective.

We disagree with the request to extend the compliance time to 36 months. Based on a review of the safety aspects and the potential impact to the affected fleet, in conjunction with the latest recommendation from Boeing, as discussed previously, we determined that an extension of the compliance time to 18 months for this final rule is appropriate.

Request for Clarification of a Possible Process To Prevent Undoing the Actions Required by ADs

United Airlines (UA) requested clarification of a possible process to prevent undoing the actions required by ADs. UA stated that clamp replacement could take place by non-routine maintenance after accomplishment of Boeing Alert Service Bulletin 747–24A2360, Revision 1, dated May 2, 2012, and could undo the mandate of the NPRM (78 FR 8999, February 7, 2013). UA asked if there are any means that this AD or future ADs will mandate a process to identify items/areas affected by the AD that may be followed by the industry and original equipment manufacturers (OEMs) so as not to undo the AD.

We acknowledge that operators must prevent non-routine maintenance from impacting AD requirements. The FAA worked in conjunction with industry, under the Airworthiness Directives Implementation Aviation Rulemaking Committee (ARC), to enhance the AD system. One enhancement involves design approval holder (DAH) recommendations to evaluate the potential for undoing an AD-mandated configuration during all stages of design and development of service bulletins, maintenance documents, or Instructions for Continued Airworthiness (ICA). Refer to Advisory Circular (AC) 20–176, dated December 19, 2011 (*http://rgl.avs.faa.gov/Regulatory_and_Guidance_Library/rgAdvisoryCircular.nsf/0/a78cc91a47b192278625796b0075f419/$FILE/AC%2020-176.pdf*). The DAH recommendations in this AC are voluntary.

Also in response to the AD Implementation ARC, the FAA released AC 39–9, (*http://www.faa.gov/documentLibrary/media/Advisory_Circular/AC%2039-9%20CHG%201.pdf*). This AC includes guidance to operators for developing an AD management process that includes information about preventative measures to eliminate and/or mitigate the risk of altering the AD configuration. It is the responsibility of operators to apply necessary controls to maintain the airplane in accordance with the required configuration of an AD. However, given the variety of maintenance and inspection programs of affected operators, we do not believe it is necessary or appropriate to prescribe a particular process to ensure that operators fulfill this responsibility. We have made no changes to this final rule in this regard.

Request for Clarification of Compliance Time

Virgin Atlantic Airways (the commenter) requested that we clarify the compliance time of the NPRM (78 FR 8999, February 7, 2013). The commenter explained that the compliance time is not clear because Boeing Alert Service Bulletin 747–24A2360, Revision 1, dated May 2, 2012, states a recommended compliance time of 14 months from the date of Boeing Alert Service Bulletin 747–24A2360, Revision 1, dated May 2, 2012, but that paragraph (h)(2) of the NPRM states, ''this AD requires compliance within the specified compliance time after the effective date of this AD.''

Boeing requested that we clarify the compliance time of the NPRM (78 FR 8999, February 7, 2013). Boeing explained that paragraph (h)(2) of the NPRM states: ''Where Boeing Alert Service Bulletin 747–24A2360, Revision 1, dated May 2, 2012, specifies a compliance time after the date on the service bulletin, this AD requires compliance within the specified compliance time after the effective date of this AD.'' Boeing stated that the compliance statement within Boeing Alert Service Bulletin 747–24A2360, Revision 1, dated May 2, 2012, states: ''Boeing recommends that the inspection, change and/or repair given in this service bulletin be done within 14 months after the Revision 1 date of this service bulletin.''

We agree to clarify the compliance time. The NPRM (78 FR 8999, February 7, 2013) referred to the compliance times specified in Boeing Alert Service Bulletin 747–24A2360, Revision 1, dated May 2, 2012, except that where the service bulletin specifies a compliance time after the date on the service bulletin, this AD would require a compliance time within a specified compliance time after the effective date of this AD. In other words, where Boeing Alert Service Bulletin 747–24A2360, Revision 1, dated May 2, 2012, specifies a compliance time of ''within 14 months after the Revision 1 date of this service bulletin,'' the NPRM would require a compliance time of ''within 14 months after the effective date of this AD.'' However, as stated previously, we have extended the compliance time and stated it directly in paragraph (g) of this AD.

Request To Revise Parts Installation Limitation

Boeing requested that we revise the NPRM (78 FR 8999, February 7, 2013) to either remove the requirement in paragraph (i) of the NPRM, which only allows the use of part number (P/N) TA025097L16 clamps, or that we remove the size suffix (16) from the part number (e.g., P/N TA025097L()). Boeing explained that the variability in wire bundle size due to different wire types/part numbers or wire quantity sometimes requires clamp sizing flexibility. Boeing also expressed that paragraph (i) conflicts with Note 5 of paragraph 3.A., ''GENERAL INFORMATION,'' of Boeing Alert Service Bulletin 747–24A2360, Revision 1, dated May 2, 2012.

Virgin Atlantic Airways also requested that we revise paragraph (i) of the NPRM (78 FR 8999, February 7, 2013) to not specify the clamp size. Virgin Atlantic Airways explained that if an operator needs to install a different size clamp, then that would require requesting an alternative method of compliance (AMOC) to comply with this AD.

We agree with the request to revise paragraph (i) in this final rule. Paragraph (i) as written in the NPRM (78 FR 8999, February 7, 2013), would not allow the flexibility needed to use a different size clamp of the same basic part number to accommodate wire bundle size differences. We have revised paragraph (i) of this final rule by adding a parenthesis ''()'', which designates different size clamps to accommodate possible wire bundle diameter size differences. We disagree to remove paragraph (i) in this final rule because installation of an improper or unsafe clamp may be detrimental to the safety of the airplane.

Request for Clarification of Areas Affected by the Parts Installation Limitation

Virgin Atlantic Airways requested that we clarify paragraph (i) of the NPRM (78 FR 8999, February 7, 2013). Virgin Atlantic Airways explained that the current wording in paragraph (i) of the NPRM can be interpreted as if it applies to the entire aircraft and not just those clamps that are required to be replaced as per Boeing Alert Service Bulletin 747–24A2360, Revision 1, dated May 2, 2012.

We agree to revise paragraph (i) of this final rule. Paragraph (i), as written in the NPRM (78 FR 8999, February 7, 2013), could be misinterpreted to mean it applies to all areas of the airplane when, in fact, it applies to those areas of the airplane identified in Boeing Service Bulletin 747–24A2360, Revision 2, dated October 2, 2013. We have revised paragraph (i) of this final rule accordingly.

Request To Delay the NPRM (78 FR 8999, February 7, 2013)

Mr. David Jiang, a private citizen, requested that we delay the NPRM (78 FR 8999, February 7, 2013), until more independent research to assess the cost to Boeing can be performed. Mr. Jiang explained that the estimate in the NPRM is not correct and would like the FAA to disclose how we calculated the cost associated with inspecting and replacing the affected clamps and grommets. Mr. Jiang expressed that if independent third-party entities determine that the financial costs of these minor repairs outweigh other concerns, perhaps this AD will be scrapped entirely, saving Boeing and the public much unnecessary work and expense.

We disagree to delay this final rule. The estimated costs of the inspections and replacement of the clamps and grommets, which are industry accepted, have been thoroughly assessed by Boeing, and is part of the Boeing service information provided to the operators. The safety merits of this final rule have also been assessed by both Boeing and the FAA, and it was determined that this final rule needs to be released in order to maintain an acceptable level of safety for the affected airplanes. We have made no changes to this final rule in this regard.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (78 FR 8999, February 7, 2013) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (78 FR 8999, February 7, 2013).

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

Costs of Compliance

We estimate that this AD affects 55 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection, and clamp and grommet replacement.	6 work-hours × $85 per hour = $510 per inspection cycle.	$70	$580 per inspection cycle	$31,900 per inspection cycle.

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this AD.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2014–06–02 The Boeing Company: Amendment 39–17806; Docket No. FAA–2013–0089; Directorate Identifier 2012–NM–166–AD.

(a) Effective Date

This AD is effective April 25, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 747–400 series airplanes, certificated in any category, as identified in Boeing Service Bulletin 747–24A2360, Revision 2, dated October 2, 2013.

(d) Subject

Air Transport Association (ATA) of America Code 24, Electrical Power.

(e) Unsafe Condition

This AD was prompted by reports of auxiliary power unit (APU) faults due to power feeder cable chafing. We are issuing this AD to detect and correct chafing of the APU power feeder cables within a flammable fluid leakage zone, which, with arcing, could result in fire and structural damage.

(f) Compliance

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

(g) Inspection, Related Investigative and Corrective Actions

Within 18 months after the effective date of this AD: Do a detailed inspection for damage (e.g., surface finish integrity, excessive wear or possible heat damage) of the APU power feeder cables within each wire bundle on the left and right sides of the bulkhead, and do all applicable related investigative and corrective actions, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 747–24A2360, Revision 2, dated October 2, 2013; except as required by paragraph (h) of this AD. If no damage is found during this inspection, before further flight, replace the clamp(s) and install grommets, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 747–24A2360, Revision 2, dated October 2, 2013. Do all applicable related investigative and correction actions before further flight. Where Boeing Service Bulletin 747–24A2360, Revision 2, dated October 2, 2013, specifies installation of a clamp having part number (P/N) TA025097L16, a clamp having P/N TA025097L() may be installed instead.

Note 1 to paragraph (g) of this AD: The parenthesis ''()'' designates different size clamps, to accommodate possible wire bundle diameter size differences.

(h) Exceptions to the Service Information

If any damage is found during any inspection required by this AD, and Boeing Service Bulletin 747–24A2360, Revision 2, dated October 2, 2013, specifies to contact Boeing for appropriate action: Before further flight, repair the damage using a method approved in accordance with paragraph (k) of this AD.

(i) Parts Installation Limitation

As of the effective date of this AD, no person may install, on any airplane, any wiring support clamp, except for part number TA025097L(), in those areas of the airplane identified in Boeing Service Bulletin 747–24A2360, Revision 2, dated October 2, 2013.

Note 2 to paragraph (i) of this AD: The parenthesis ''()'' designates different size clamps, to accommodate possible wire bundle diameter size differences.

(j) Credit for Previous Actions

This paragraph provides credit for the actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Boeing Alert Service Bulletin 747–24A2360, dated January 18, 2012; or Boeing Alert Service Bulletin 747–24A2360, Revision 1, dated May 2, 2012; which are not incorporated by reference in this AD.

(k) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (l) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov*.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(l) Related Information

(1) For more information about this AD, contact Georgios Roussos, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, Seattle Aircraft Certification Office, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6482; fax: 425–917–6590; email: *georgios.roussos@faa.gov*.

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

(m) Material Incorporated by Reference

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

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

(i) Boeing Service Bulletin 747–24A2360, Revision 2, dated October 2, 2013.

(ii) Reserved.

(3) For Boeing service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.*

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

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

Issued in Renton, Washington, on March 7, 2014.

Michael J. Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–06004 Filed 3–20–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–1057; Directorate Identifier 2013–CE–041–AD; Amendment 39–17805; AD 2014–06–01]

RIN 2120–AA64

Airworthiness Directives; M7 Aerospace LLC Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all M7 Aerospace LLC Models SA226–AT, SA226–T, SA226–T(B), SA226–TC, SA227–AC (C–26A), SA227–AT, SA227–BC (C–26A), SA227–CC, SA227–DC (C–26B), SA227–TT, SA26–AT, and SA26–T airplanes. This AD was

prompted by reports of airplanes with multiple fatigue cracks in the FS 69.31 front pressure bulkhead. This AD requires repetitively inspecting (visually) the FS 51.31 front pressure bulkhead on SA26 series airplanes and FS 69.31 front pressure bulkhead on SA226 and SA227 series airplanes for cracks, and repairing any cracked bulkhead; this AD also requires reporting certain inspection results to M7 Aerospace LLC. We are issuing this AD to correct the unsafe condition on these products.

DATES: This AD is effective April 25, 2014.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of April 25, 2014.

ADDRESSES: For service information identified in this AD, contact M7 Aerospace LP, 10823 NE Entrance Road, San Antonio, Texas 78216; phone: (210) 824–9421; fax: (210) 804–7766; Internet: *http://www.elbitsystems-us.com*; email: none. You may view this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call 816–329–4148.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2013–1057; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Andrew McAnaul, Aerospace Engineer, FAA, ASW–150 (c/o San Antonio MIDO), 10100 Reunion Place, Suite 650, San Antonio, Texas 78216; phone: (210) 308–3365; fax: (210) 308–3370; email: *andrew.mcanaul@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all M7 Aerospace LLC Models SA226–AT, SA226–T, SA226–T(B), SA226–TC, SA227–AC (C–26A), SA227–AT, SA227–BC (C–26A), SA227–CC, SA227–DC (C–26B), SA227–TT, SA26–AT, and SA26–T airplanes. The NPRM published in the **Federal Register** on December 24, 2013 (78 FR 77618). The NPRM was prompted by reports of airplanes with multiple fatigue cracks in the FS 69.31 front pressure bulkhead. The NPRM proposed to require repetitively inspecting (visually) the FS 51.31 front pressure bulkhead on SA26 series airplanes and FS 69.31 front pressure bulkhead on SA226 and SA227 series airplanes for cracks, and repairing any cracked bulkhead. This NPRM also proposed to require reporting certain inspection results to M7 Aerospace LLC. We are issuing this AD to correct the unsafe condition on these products.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (78 FR 77618, December 24, 2013) or on the determination of the cost to the public.

Conclusion

We reviewed the relevant data and determined that air safety and the public interest require adopting this AD as proposed except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (78 FR 77618, December 24, 2013) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (78 FR 77618, December 24, 2013).

Costs of Compliance

We estimate that this AD affects 360 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspect visually F.S. 69.31 or F.S. 51.31 bulkhead (as applicable), looking for cracking in the radius.	12 work-hours × $85 per hour = $1,020 per inspection.	Not Applicable	$1,020	$367,200 per inspection cycle.

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

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Repair damage	400 work-hours × $85 per hour = $34,000	$8,000	$42,000

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB control number. The control number for the collection of information required by this AD is 2120–0056. The paperwork cost associated with this AD has been detailed in the Costs of Compliance section of this document and includes time for reviewing instructions, as well as completing and reviewing the collection of information. Therefore, all reporting associated with this AD is mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at 800

Independence Ave., SW., Washington, DC 20591. ATTN: Information Collection Clearance Officer, AES–200.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2014–06–01 M7 Aerospace LLC: Amendment 39–17805, Docket No. FAA–2013–1057; Directorate Identifier 2013–CE–041–AD.

(a) Effective Date

This AD is effective April 25, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to M7 Aerospace LLC Models SA226–AT, SA226–T, SA226–T(B), SA226–TC, SA227–AC (C–26A), SA227–AT, SA227–BC (C–26A), SA227–CC, SA227–DC (C–26B), SA227–TT, SA26–AT, and SA26–T airplanes, all serial numbers, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code: 5312, Fuselage Main, Bulkhead.

(e) Unsafe Condition

This AD was prompted by reports of airplanes with multiple fatigue cracks in the FS 69.31 front pressure bulkhead. We are issuing this AD to detect and correct cracks in the FS 51.31 (SA26 airplanes) and FS 69.31 (SA226 and SA227 airplanes) front pressure bulkhead, which if not corrected, could result in cabin depressurization.

(f) Compliance

Comply with this AD within the compliance times specified in paragraphs (h) through (j) of this AD, including all subparagraphs, unless already done.

(g) Inspection for Crack Damage

Do a detailed visual inspection of the front pressure bulkhead using the compliance times in paragraphs (h)(1) and (h)(2) of this AD, including all subparagraphs, as applicable.

(1) *For all SA26–AT and SA26–T airplanes:* Do a detailed visual inspection of the F.S. 51.31 front pressure bulkhead following paragraphs A. through E. of the Accomplishment Instructions in M7 Aerospace LLC SA26 Series Service Bulletin 26–53–001 R1, revised November 6, 2013.

(2) *For all SA226–AT, SA226–T, SA226 T(B), and SA226–TC airplanes:* Do a detailed visual inspection of the F.S. 69.31 front pressure bulkhead following paragraphs A. through E. of the Accomplishment Instructions in M7 Aerospace LLC SA226 Series Service Bulletin 226–53–017 R1, revised November 6, 2013.

(3) *For all SA227–AC (C–26A), SA227–AT, SA227–BC (C–26A), and SA227–TT airplanes:* Do a detailed visual inspection of the F.S. 69.31 front pressure bulkhead following paragraphs A. through E. of the Accomplishment Instructions in M7 Aerospace LLC SA227 Series Service Bulletin 227–53–011 R1, revised November 6, 2013.

(4) *For all SA227–CC and SA227–DC (C–26B) airplanes:* Do a detailed visual inspection of the F.S. 69.31 front pressure bulkhead following paragraphs A. through E. of the Accomplishment Instructions in M7 Aerospace LLC SA227 Series Commuter Category Service Bulletin CC7–53–007 R1, revised November 6, 2013.

Note 1 to paragraph (g) of this AD: Operators who had the initial inspection and resulting repairs accomplished using procedures different from the M7 Aerospace LLC service information required by this AD action may apply for an alternative method of compliance (AMOC) following the instructions in paragraph (m) of this AD.

(h) Bulkhead Inspection Compliance Times

(1) Initially do the inspections for crack damage required by paragraph (g)(1), (g)(2), (g)(3), or (g)(4) of this AD, as applicable, using the compliance times specified below:

(i) *For airplanes with 30,000 or more hours TIS,* perform the inspection within the next 150 hours TIS after April 25, 2014(the effective date of this AD);

(ii) *For airplanes with at least 25,000 but less than 30,000 hours TIS,* perform the inspection within the next 300 hours TIS after April 25, 2014 (the effective date of this AD);

(iii) *For airplanes with at least 20,000 but less than 25,000 hours TIS,* perform the inspection within the next 450 hours TIS after April 25, 2014 (the effective date of this AD);

(iv) *For airplanes with at least 11,000 but less than 20,000 hours TIS,* perform the inspection within the next 600 hours TIS after April 25, 2014 (the effective date of this AD); or

(v) *For airplanes with less than 11,000 hours TIS,* perform the inspection before or upon accumulating 11,000 hours TIS or within the next 600 hours TIS after April 25, 2014 (the effective date of this AD), whichever occurs later.

(2) After the initial inspection specified in paragraph (h)(1) of this AD, to include all subparagraphs, repetitively thereafter do the inspections required in paragraph (g)(1), (g)(2), (g)(3), or (g)(4) of this AD, as applicable, at intervals not to exceed 1,000 hours TIS.

(i) Reporting Requirement for All Airplanes

If any cracks or other damage is found during any inspection required by paragraph (g)(1), (g)(2), (g)(3), or (g)(4) of this AD, before further flight, report all damage to M7 Aerospace LLC using the contact information and reporting criteria specified in paragraph F. of the Accomplishment Instructions in the service information listed in paragraphs (i)(1) through (i)(4) of this AD, as applicable:

(1) M7 Aerospace LLC SA227 Series Commuter Category Service Bulletin CC7–53–007 R1, revised November 6, 2013.

(2) M7 Aerospace LLC SA227 Series Service Bulletin 227–53–011 R1, revised November 6, 2013.

(3) M7 Aerospace LLC SA26 Series Service Bulletin 26–53–001 R1, revised November 6, 2013.

(4) M7 Aerospace LLC SA226 Series Service Bulletin 226–53–017 R1, revised November 6, 2013.

(j) Repair of Crack Damage

If any damage is found during any inspection required by paragraph (g)(1), (g)(2), (g)(3), or (g)(4) of this AD, before further flight, repair the damage following paragraph G. of the Accomplishment Instructions in the service information listed in paragraphs (j)(1) through (j)(4) of this AD, as applicable. The repair scheme provided will be based on the damage reports submitted per paragraph (i) of this AD.

(1) M7 Aerospace LLC SA227 Series Commuter Category Service Bulletin CC7–53–007 R1, revised November 6, 2013.

(2) M7 Aerospace LLC SA227 Series Service Bulletin 227–53–011 R1, revised November 6, 2013.

(3) M7 Aerospace LLC SA26 Series Service Bulletin 26–53–001 R1, revised November 6, 2013.

(4) M7 Aerospace LLC SA226 Series Service Bulletin 226–53–017 R1, revised November 6, 2013.

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

This AD allows credit for the initial inspection and any resulting actions required in paragraphs (g)(1) through (g)(4), (i), and (j) of this AD, including all subparagraphs, if done before April 25, 2014 (the effective date of this AD), following the procedures specified in the Accomplishment Instructions of the applicable service information listed in paragraphs (k)(1) through (k)(4) of this AD:

(1) M7 Aerospace LLC SA227 Series Commuter Category Service Bulletin CC7–53–007, dated September 26, 2013.

(2) M7 Aerospace LLC SA227 Series Commuter Category Service Bulletin 227–53–011, dated September 26, 2013.

(3) M7 Aerospace LLC SA26 Series Service Bulletin 226–53–001, dated September 26, 2013.

(4) M7 Aerospace LLC SA226 Series Service Bulletin 226–53–017, dated September 26, 2013.

(l) Paperwork Reduction Act Burden Statement

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

(m) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Fort Worth Airplane Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (n)(1) of this AD.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(n) Related Information

For more information about this AD, contact Andrew McAnaul, Aerospace Engineer, FAA, ASW–150 (c/o San Antonio MIDO), 10100 Reunion Place, Suite 650, San Antonio, Texas 78216; phone: (210) 308–3365; fax: (210) 308–3370; email: *andrew.mcanaul@faa.gov*.

(o) Material Incorporated by Reference

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

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

(i) M7 Aerospace LLC SA227 Series Commuter Category Service Bulletin CC7–53–007 R1, revised November 6, 2013.

(ii) M7 Aerospace LLC SA227 Series Service Bulletin 227–53–011 R1, revised November 6, 2013.

(iii) M7 Aerospace LLC SA26 Series Service Bulletin 26–53–001 R1, revised November 6, 2013.

(iv) M7 Aerospace LLC SA226 Series Service Bulletin 226–53–017 R1, revised November 6, 2013.

(3) For M7 Aerospace LLC service information identified in this AD, contact M7 Aerospace LP, 10823 NE Entrance Road, San Antonio, Texas 78216; phone: (210) 824–9421; fax: (210) 804–7766; Internet: *http://www.elbitsystems-us.com;* email: none.

(4) You may view this service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call 816–329–4148.

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

Issued in Kansas City, Missouri, on March 7, 2014.

Steven W. Thompson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–05613 Filed 3–20–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–1318; Directorate Identifier 2012–NM–104–AD; Amendment 39–17789; AD 2014–05–16]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain The Boeing Company Model 747–200B, 747–300, 747–400, 747–400D, 747–400F series airplanes, and Model 767 series airplanes, powered by General Electric (GE) CF6–80C2 engines. This AD was prompted by reports of failure of the electro mechanical brake flexshaft (short flexshaft) of the thrust reverser actuation system (TRAS). This AD requires replacing the short flexshaft on each engine with a new short flexshaft, testing of the electro mechanical brake and center drive unit (CDU) cone brake to verify the holding torque, and performing related investigative and corrective actions if necessary. We are issuing this AD to prevent an uncommanded in-flight thrust reverser deployment and consequent loss of control of the airplane.

DATES: This AD is effective April 25, 2014.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of April 25, 2014.

ADDRESSES: For Boeing service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P. O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.*

For Middle River Aircraft Systems service information identified in this AD, contact Middle River Aircraft Systems, 103 Chesapeake Park Plaza, Baltimore, MD 21220; telephone 410–682–1500; fax 410–682–1230; email *info@mras-usa.com;* Internet *http://www.mras-usa.com/contact.html.*

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov*; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Tung Tran, Aerospace Engineer, Propulsion Branch, ANM–140S, Seattle Aircraft Certification Office (ACO), FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6505; fax: 425–917–6590; email: *Tung.Tran@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model 747–200B, 747–300, 747–400, 747–400D, 747–400F series airplanes, and Model 767 series airplanes, powered by General Electric (GE) CF6–80C2 engines. The NPRM published in the **Federal Register** on January 16, 2013 (78 FR 3363). The NPRM was prompted by reports of failure of the electro mechanical brake flexshaft (short flexshaft) of the thrust reverser actuation system (TRAS). The NPRM proposed to require replacing the short flexshaft on each engine with a new short flexshaft, testing of the electro-mechanical brake and center drive unit (CDU) cone brake to verify the holding torque, and performing related investigative and corrective actions if necessary. We are issuing this AD to prevent an uncommanded in-flight thrust reverser deployment and consequent loss of control of the airplane.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal (78 FR 3363, January 16, 2013) and the FAA's response to each comment.

Request To Clarify Applicability and Reliability Difference Between Engine Models

Air France Industries asked if the thrust reversers on GE CF6–80E1 powered airplanes are addressed by the NPRM (78 FR 3363, January 16, 2013), and if the flexshaft reliability difference between GE CF6–80C2 and CF6–80E1 engines is due to the systematic introduction of the double P-Seal on translating cowls on GE CF6–80E1 engines.

We agree to clarify why the NPRM (78 FR 3363, January 16, 2013) did not address the GE CF6–80E1 thrust reversers. This final rule was prompted by reports of failure of the electro-mechanical brake flexshaft (short flexshaft) of the TRAS on Model 747 and Model 767 airplanes powered by GE CF6–80C2 engines. Therefore, we did not conduct a safety assessment on airplanes powered by GE CF6–80E1 engines. We have not determined that the double P-Seal was a contributing factor to the failure of the flexshaft on GE CF6–80C2 engines. We are aware that this defective flexshaft could be installed on other engines. We have contacted the appropriate office to address the safety concerns regarding this defective flexshaft on other airplane models, and might consider additional rulemaking if an unsafe condition is identified on other engines. We have not changed this final rule in this regard.

Request To Include Additional Service Information

UPS requested that we allow the use of Middle River Aircraft Systems (MRAS) CF6–80C2B Service Bulletin 78–1168, Revision 1, dated August 26, 2010, to comply with the flexshaft replacement proposed by paragraph (g) of the NPRM (78 FR 3363, January 16, 2013). UPS stated that it has fully complied with the flexshaft replacement requirement using this service information.

We agree with the commenter's request. Since we issued the NPRM (78 FR 3363, January 16, 2013), we have determined that flexshaft replacements done in accordance with Middle River Aircraft Systems CF6–80C2B Service Bulletin 78–1168, Revision 1, dated August 26, 2010; and Revision 2, dated April 19, 2011; meet the intent of this final rule. We have changed paragraph (g) of this final rule to include Middle River Aircraft Systems CF6–80C2B Service Bulletin 78–1168, Revision 2, dated April 19, 2011, as an appropriate source of service information; and we have also added new paragraph (m) to this final rule to provide credit for actions done prior to the effective date of this final rule using Middle River Aircraft Systems CF6–80C2B Service Bulletin 78–1168, Revision 1, dated August 26, 2010. We have redesignated subsequent paragraphs accordingly.

Request To Update Parts Cost

MRAS provided current cost data and requested that we update the estimated parts costs accordingly.

We agree to update the estimated parts costs. We have changed the estimated parts cost to $4,031 for each flexshaft, which changes the estimated parts cost to $32,248 for a Model 747 airplane, and to $16,124 for a Model 767 airplane.

Request To Change Parts Installation Prohibition Paragraph

Boeing and MRAS requested that we change paragraph (k) of the NPRM (78 FR 3363, January 16, 2013), which would prohibit installation of part number (P/N) 3278500–( ), on any airplane, to specify that this prohibition applies only to Boeing airplanes. MRAS stated that P/N 3278500–( ) is still certified on Airbus Model A330 airplanes.

We partially agree with the commenters' request. This final rule applies only to the airplanes identified in paragraph (c) of this final rule. Paragraph (k) of this final rule specifies ''any airplane,'' which refers to the airplanes identified in paragraph (c) of this final rule. However, to add clarity to this final rule, we have revised paragraph (k) of this final rule to specify that the parts prohibition applies only to the airplanes identified in paragraph (c) of this final rule.

Request To Clarify CDU Cone Brake Replacement Action

Boeing and MRAS requested that we change the fifth paragraph of the Relevant Service Information section of the NPRM (78 FR 3363, January 16, 2013), which specified that the corrective action for a CDU cone brake test failure is replacement of the CDU cone brake with a new CDU cone brake. The commenters stated that the cone brake is not a line-replaceable unit (LRU), and that if a CDU cone brake fails, the entire CDU must be replaced with a serviceable CDU. MRAS stated that the cone brake within the CDU can be replaced only in a component maintenance shop.

We agree that the cone brake is not an LRU, and that the corrective action for a CDU cone brake test failure is replacement of the CDU with a new or serviceable CDU. Paragraph (i) of this final rule requires doing the corrective action for a failed cone brake functional test in accordance with certain applicable service information, which does specify replacing the CDU—not just the cone brake—after a failed test. The Relevant Service Information

paragraph of the NPRM (78 FR 3363, January 16, 2013) is not repeated in this final rule; therefore, we have not changed this final rule in this regard.

Request To Extend the Repetitive Inspection Interval

Air New Zealand (ANZ) requested that we extend the repetitive inspection interval specified in paragraph (h) of the NPRM (78 FR 3363, January 16, 2013) to 3,000 flight hours or greater. ANZ cited several previous alternative methods of compliance (AMOC) approvals for issued ADs to extend the inspection intervals on the thrust reverser CDU cone brake and the electro-mechanical brakes.

We do not agree to extend the repetitive inspection interval proposed in the NPRM (78 FR 3363, January 16, 2013) to 3,000 flight hours or greater. The AMOC extension to inspection intervals to 3,000 flight hours or greater was granted based on a fault tree analysis that assumed the engine cowl anti-ice system was causing the short flexshaft to fail. We now have enough data to invalidate that assumption. As part of the certification process of the new flexshaft, the system safety analyses on all Model 747 and Model 767 airplanes with GE CF6–80C2 engines were refined, and the predicted failure rate from the comparative testing was used. We have determined that we could meet average and specific risk requirements with an inspection interval of 2,000 flight hours for both the CDU cone brake and TRAS lock flexshaft. Therefore, we have determined that a repetitive inspection interval of 2,000 flight hours is necessary to address the unsafe condition. We have not changed this final rule in this regard.

Request To Combine Multiple ADs Into One AD

ANZ requested that we combine the following ADs into one new AD to reduce the complexity of multiple regulatory requirements.

- AD 2003–16–16, Amendment 39–13269 (68 FR 51439, August 27, 2003).
- AD 2000–15–04, Amendment 39–11833 (65 FR 47252, August 2, 2000).
- AD 2000–09–04, Amendment 39–11712 (65 FR 25833, May 4, 2000).

We partially agree with the commenter's request. We agree with the commenter about the complexity of complying with multiple regulatory requirements. We disagree with the request to combine the requirements of these ADs into one new AD, because this final rule is not the proper venue for addressing this issue. We are issuing this final rule to require replacement of the short flexshaft with a better and more reliable part. We have considered the previous rulemaking by allowing this new part replacement and repetitive inspections to be a terminating action for the repetitive inspections set by previous ADs, as specified in paragraph (j) of this final rule. We have not changed this final rule in this regard.

Request To Add Airplanes to the Applicability

Boeing requested that we include Model 767 airplanes powered by GE CF6–80C2 engines in the applicability of the NPRM (78 FR 3363, January 16, 2013); and require all production airplanes to do the requirements of paragraph (h) of the NPRM. Boeing stated that AD 2000–09–04, Amendment 39–11712 (65 FR 25833, May 5, 2000), which is applicable to Model 767 airplanes powered by GE CF6–80C2 engines, mandates the inspection of the TRAS lock flexshaft and CDU cone brake at 1,000 hours, and that these airplanes should be able to use the extended 2,000-hour TRAS lock flexshaft and CDU tests granted in the NPRM.

We disagree with the commenter's request. Adding airplanes to the applicability would necessitate (under the provisions of the Administrative Procedure Act) reissuing the notice, reopening the comment period, considering additional comments subsequently received, and eventually issuing a final rule. In consideration of the amount of time that has already elapsed since issuance of the original notice (78 FR 3363, January 16, 2013), we have determined that further delay of this final rule is not appropriate. However, we might consider further rulemaking on this issue. We have not changed this final rule in this regard.

Request To Allow Dispatch of an Airplane With a Failed CDU Cone Brake Check

Boeing requested that we allow a master minimum equipment list (MMEL) dispatch of an airplane when a CDU cone brake check fails. Boeing stated that a certain FAA AMOC approval letter already allows for an MMEL dispatch of an airplane when only the CDU cone brake check fails.

We agree with the commenter's request. The electro-mechanical brake provides an additional level of protection against the inadvertent in-flight deployment of the thrust reverser. We have added new paragraph (l) to this final rule, which specifies that in the event of a CDU cone brake failure, an airplane may be operated as specified in the operator's FAA-approved minimum equipment list, provided that certain conditions are met. We have redesignated subsequent paragraphs accordingly.

Requests for Terminating Action

Boeing requested we specify that the functional tests in paragraph (h) of the NPRM (78 FR 3363, January 16, 2013) terminate the functional test requirements of paragraph (e), as well as paragraph (f), of AD 2000–09–04, Amendment 39–11712 (65 FR 25833, May 4, 2000).

Delta Airlines requested we specify that the functional tests in paragraph (h) of the NPRM (78 FR 3363, January 16, 2013) terminate the requirements of paragraph (a), as well as paragraph (e), of AD 2003–16–16, Amendment 39–13269 (68 FR 51439, August 27, 2003).

We agree with the commenters' requests. The functional tests required by paragraph (h) of this final rule address the tests required by the AD requirements cited by the commenters. We have changed paragraphs (j)(1) and (j)(3) of this final rule, as specified by the commenter.

Request for Credit for Previous Actions

Atlas Air requested that we give credit for the actions required by paragraph (h) of the NPRM (78 FR 3363, January 16, 2013), if those actions were done before the effective date of this AD using the service information specified in paragraph (h) of the NPRM.

Specifying credit for the actions done before the effective date of this final rule using the same service information specified in paragraph (h) of this final rule is unnecessary. Paragraph (f) of this final rule specifies to comply with the AD within the compliance times specified, unless already done. We have not changed this final rule in this regard.

Requests for Clarification of Installation Instructions

American Airlines (AAL) requested that we revise paragraph (g) of the NPRM (78 FR 3363, January 16, 2013) to clarify that the installation instructions for the new short flexshaft contain a lower torque value than the torque value specified in AD 2000–09–04, Amendment 39–11712 (65 FR 25833, May 4, 2000), and the service information referenced in AD 2000–09–04.

We agree to clarify the installation instructions. The torque value for the new short flexshaft installation in paragraph (g) is lower than the torque value described for the part specified in AD 2000–09–04, Amendment 39–11712 (65 FR 25833, May 4, 2000). We have

added Note 1 to paragraph (g) of this final rule to clarify this issue.

Request for Clarification of Compliance Time

AAL requested we clarify that the compliance time of paragraph (h) of the NPRM (78 FR 3363, January 16, 2013) supersedes the compliance times specified in AD 2000–09–04, Amendment 39–11712 (65 FR 25833, May 4, 2000); Boeing Service Bulletin 767–78A0081, Revision 2, dated April 19, 2001; and FAA AMOC 140S–03–313, dated December 19, 2003.

We agree to clarify the compliance time. This final rule does not supersede AD 2000–09–04, Amendment 39–11712 (65 FR 25833, May 4, 2000). FAA AMOC 140S–03–313, dated December 19, 2003, applies to AD 2000–09–04, and not to this final rule. We have determined that the functional test compliance times specified in paragraph (h) of this final rule are necessary to ensure the continued airworthiness of the airplane. Under the provisions of paragraph (n) of this final rule, however, we may consider requests for adjustments to the compliance time if data are submitted to substantiate that such an adjustment would provide an acceptable level of safety. We have not changed this final rule in this regard.

Request for Certain Hardware Approvals

AAL requested that we approve FAA AMOC 140S–12–42, dated March 14, 2012, as an AMOC to the NPRM (78 FR 3363, January 16, 2013), or specifically list the hardware approvals and actions in AMOC 140S–12–42 dated March 14, 2012, in the NPRM.

We disagree with the commenter's requests. The commenter did not provide data to substantiate that the hardware actions specified in FAA AMOC 140S–12–42, dated March 14, 2012, are applicable to the new short flexshaft installation required by this final rule. Under the provisions of paragraph (n) of this final rule, however, we will consider requests for approval of an AMOC if sufficient data are submitted to substantiate that alternative hardware requirements would provide an acceptable level of safety. We have not changed this final rule in this regard.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (78 FR 3363, January 16, 2013) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (78 FR 3363, January 16, 2013).

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

Costs of Compliance

We estimate that this AD affects 298 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Replacement Model 747 airplanes (72 airplanes)	8 work-hours × $85 per hour = $680	$32,248	$32,928	$2,370,816
Replacement Model 767 airplanes (226 airplanes)	4 work-hours × $85 per hour = $340	16,124	16,464	3,720,864
Functional test Model 747 airplanes (72 airplanes)	12 work-hours × $85 per hour = $1,020	0	1,020	73,440
Functional test Model 767 airplanes (226 airplanes)	12 work-hours × $85 per hour = $1,020	0	1,020	230,520

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this AD.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2014–05–16 The Boeing Company: Amendment 39–17789; Docket No. FAA–2012–1318; Directorate Identifier 2012–NM–104–AD.

(a) Effective Date

This AD is effective April 25, 2014.

(b) Affected ADs

This AD affects AD 2003–16–16, Amendment 39–13269 (68 FR 51439, August 27, 2003); AD 2000–15–04, Amendment 39–11833 (65 FR 47252, August 2, 2000); and AD 2000–09–04, Amendment 39–11712 (65 FR 25833, May 4, 2000).

(c) Applicability

This AD applies to The Boeing Company airplanes, certificated in any category, powered by General Electric (GE) CF6–80C2 engines, as identified in paragraphs (c)(1) and (c)(2) of this AD.

(1) Model 747–200B, 747–300, 747–400, 747–400D, and 747–400F series airplanes, as identified in Boeing Alert Service Bulletin 747–78A2185, dated October 26, 2010.

(2) Model 767–200, –300, –300F, and –400ER series airplanes, as identified in Boeing Alert Service Bulletin 767–78A0100, dated October 26, 2010.

(d) Subject

Joint Aircraft System Component (JASC) Code 7830, Thrust reverser.

(e) Unsafe Condition

This AD was prompted by reports of failure of the electro-mechanical brake flexshaft (short flexshaft) of the thrust reverser actuation system (TRAS). We are issuing this AD to prevent an uncommanded in-flight thrust reverser deployment and consequent loss of control of the airplane.

(f) Compliance

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

(g) Flexible Drive Shaft Replacement

Within 60 months after the effective date of this AD, replace the short flexshaft on each thrust reverser half of each engine with a new short flexshaft, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–78A2185, dated October 26, 2010; or Boeing Alert Service Bulletin 767–78A0100, dated October 26, 2010; as applicable; or Middle River Aircraft Systems CF6–80C2B Service Bulletin 78–1168, Revision 2, dated April 19, 2011.

Note 1 to paragraph (g) of this AD: The torque value for the short flexshaft installation specified in paragraph (g) of this AD is lower than the torque value described for the part specified in AD 2000–09–04, Amendment 39–11712 (65 FR 25833, May 4, 2000).

(h) Functional Test

Within 2,000 flight hours after accomplishment of the short flexshaft replacements required by paragraph (g) of this AD: Do a functional test on the electro-mechanical brakes and the cone brake of the center drive unit (CDU) to verify the holding torque, on all thrust reversers and on all engines, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 747–78A2166, Revision 3, dated July 29, 2004 (for Model 747 airplanes); Boeing Alert Service Bulletin 767–78A0081, Revision 2, dated April 19, 2001 (for Model 767–200, –300, and –300F airplanes); or Boeing Alert Service Bulletin 767–78A0088, dated April 19, 2001 (for Model 767–400ER airplanes). Repeat the functional test thereafter at intervals not to exceed 2,000 flight hours.

(i) Corrective Action

If any functional test required by paragraph (h) of this AD fails: Before further flight, do related investigative and corrective actions, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 747–78A2166, Revision 3, dated July 29, 2004 (for Model 747 airplanes); Boeing Alert Service Bulletin 767–78A0081, Revision 2, dated April 19, 2001 (for Model 767–200, –300, and –300F airplanes); or Boeing Alert Service Bulletin 767–78A0088, dated April 19, 2001 (for Model 767–400ER airplanes); and repeat the applicable test or check until successfully accomplished.

(j) Terminating Actions

(1) Accomplishment of the initial test specified in paragraph (h) of this AD terminates the requirements of paragraphs (a) and (e) of AD 2003–16–16, Amendment 39–13269 (68 FR 51439, August 27, 2003), for Model 747–400 series airplanes powered by GE Model CF6–80C2 series engines.

(2) Accomplishment of the initial test specified in paragraph (h) of this AD terminates the requirements of paragraph (g) of AD 2000–15–04, Amendment 39–11833 (65 FR 47252, August 2, 2000), for Model 747–200 and –300 series airplanes powered by General Electric Model CF6–80C2 series engines.

(3) Accomplishment of the initial test specified in paragraph (h) of this AD terminates the requirements of paragraphs (e) and (f) of AD 2000–09–04, Amendment 39–11712 (65 FR 25833, May 4, 2000), for Model 767 series airplanes powered by General Electric Model CF6–80C2 series engines.

(k) Parts Installation Prohibition

As of the effective date of this AD, no person may install a flexshaft having part number 3278500–( ) on any airplane identified in paragraph (c) of this AD.

(l) Operation With a CDU Cone Brake Failure

In the event of a CDU cone brake failure, an airplane may be operated as specified in the operator's FAA-approved minimum equipment list, provided that the conditions specified in paragraphs (l)(1) through (l)(3) of this AD, as applicable, are met.

(1) Only one CDU cone brake check on any engine thrust reverser on the Model 767 airplane has failed.

(2) The electro-mechanical brake (TRAS lock) on the inoperative thrust reverser must be locked in the forward thrust position.

(3) Since the most recent flight, and before further flight, on the affected engine, the electro-mechanical brake (TRAS lock) holding torque is determined to be acceptable in accordance with the function test specified in paragraph (h) of this AD.

(m) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Middle River Aircraft Systems CF6–80C2B Service Bulletin 78–1168, Revision 1, dated August 26, 2010, which is not incorporated by reference in this AD.

(n) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (o)(1) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov*.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(o) Related Information

(1) For more information about this AD, contact Tung Tran, Aerospace Engineer, Propulsion Branch, ANM–140S, Seattle Aircraft Certification Office (ACO), FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6505; fax: 425–917–6590; email: *Tung.Tran@faa.gov*.

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

(p) Material Incorporated by Reference

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

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

(i) Boeing Alert Service Bulletin 747–78A2185, dated October 26, 2010.

(ii) Boeing Alert Service Bulletin 767–78A0081, Revision 2, dated April 19, 2001.

(iii) Boeing Alert Service Bulletin 767–78A0088, dated April 19, 2001.

(iv) Boeing Alert Service Bulletin 767–78A0100, dated October 26, 2010.

(v) Boeing Service Bulletin 747–78A2166, Revision 3, dated July 29, 2004.

(vi) Middle River Aircraft Systems CF6–80C2B Service Bulletin 78–1168, Revision 2, dated April 19, 2011.

(3) For Boeing service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.*

(4) For Middle River Aircraft Systems service information identified in this AD, contact Middle River Aircraft Systems, ATTN: Commercial Spares Support, Mail Point 46, 103 Chesapeake Park Plaza, Baltimore, MD 21220; fax: 410–682–0090; email: *spares_support@mras-usa.com.*

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

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

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

Ross Landes,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–04852 Filed 3–20–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–1015; Directorate Identifier 2013–NE–37–AD; Amendment 39–17798; AD 2014–05–25]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce plc Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Rolls-Royce plc (RR) RB211–Trent 970–84, RB211–Trent 970B–84, RB211–Trent 972–84, RB211–Trent 972B–84, RB211–Trent 977–84, RB211–Trent 977B–84, and RB211–Trent 980–84 turbofan engines. This AD requires inspections of the low-pressure turbine exhaust case and support assembly or tail bearing housing (TBH) to detect cracks or damage. This AD was prompted by an RR structural re-analysis indicating that the TBH may not retain full limit load capability in all fail-safe conditions. We are issuing this AD to prevent failure of the TBH, resulting in damage to the engine and damage to the airplane.

DATES: This AD becomes effective April 7, 2014.

We must receive comments on this AD by May 5, 2014.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of April 7, 2014.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

For service information identified in this AD, contact Rolls-Royce plc, Corporate Communications, P.O. Box 31, Derby, England, DE248BJ; phone: 011–44–1332–242424; fax: 011–44–1332–245418, or email: *http://www.rolls-royce.com/contact/civil_team.jsp.* You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803. For information on the availability of this material at the FAA, call 781–238–7125.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2013–1015; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the mandatory continuing airworthiness information (MCAI), the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (phone: 800–647–5527) is the same as the Mail address provided in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Anthony W. Cerra, Jr., Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7128; fax: 781–238–7199; email: *anthony.cerra@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2013–0240 (correction), dated October 4, 2013 (referred to herein after as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> Rolls-Royce performed a re-analysis of the structural features of the Trent 900 low-pressure turbine exhaust case and support assembly (also known as Tail Bearing Housing, or TBH). The result of this re-analysis indicates that the TBH may not retain full limit load capability in all fail-safe conditions. In addition, during previous inspections of Trent 900 TBH mounts and vanes, cracks have been found in the outer annulus leading edge (LE) fillet of some vanes.
>
> These conditions, if not detected and corrected, could lead to disconnection of the TBH structural ring from the mounts, possibly resulting in damage to, or reduced control of, the aeroplane.

You may obtain further information by examining the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2013–1015.

Relevant Service Information

RR has issued Repeater Technical Variance (TV) No. 132043, Issue 1, dated March 25, 2013; Repeater TV No. 132217, Issue 5, dated May 23, 2013; TV No. 124801, Issue 2, dated July 4, 2012; TV No. 124851, Issue 2, dated July 4, 2012; Alert Non-Modification Service Bulletin (NMSB) No. RB.211–72–AG971, Revision 1, dated September 27, 2013; and Alert NMSB No. RB.211–72–AH154, Revision 1, dated June 18, 2013. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This AD

This product has been approved by the aviation authority of the United Kingdom and is approved for operation in the United States. Pursuant to our bilateral agreement with the European Community, EASA has notified us of the unsafe condition described in the MCAI and service information referenced above. We are issuing this AD because we evaluated all information provided by EASA and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design. This AD requires inspections of the TBH to detect cracks or damage.

FAA's Determination of the Effective Date

No domestic operators use this product. Therefore, we find that notice and opportunity for prior public comment are unnecessary and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–1015; Directorate Identifier 2013–NE–37–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this AD. Using the search function of the Web site, anyone can find and read the comments in any of our dockets, including, if provided, the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Costs of Compliance

We estimate that this AD will affect 0 engines installed on airplanes of U.S. registry. We also estimate that it would take about 8 hours per engine to comply with this AD. The average labor rate is $85 per hour. Based on these figures, we estimate the total cost of this AD to U.S. operators is $0.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

(3) Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction, and

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

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2014–05–25 Rolls-Royce plc: Amendment 39–17798; Docket No. FAA–2013–1015; Directorate Identifier 2013–NE–37–AD.

(a) Effective Date

This AD is effective April 7, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Rolls-Royce plc (RR) RB211–Trent 970–84, RB211–Trent 970B–84, RB211–Trent 972–84, RB211–Trent 972B–84, RB211–Trent 977–84, RB211–Trent 977B–84, and RB211–Trent 980–84 turbofan engines.

(d) Reason

This AD was prompted by an RR structural re-analysis indicating that the tail bearing housing (TBH) may not retain full limit load capability in all fail-safe conditions. We are issuing this AD to prevent failure of the TBH, resulting in damage to the engine and damage to the airplane.

(e) Actions and Compliance

Comply with this AD within the compliance times specified, unless already done. Performing the on-wing or in-shop inspections as specified in paragraph (e)(1) satisfies the requirements of this AD.

(1) Accomplish on-wing or in-shop inspections of the TBH as specified in paragraphs (e)(1)(i) through (e)(1)(iv) of this AD.

(i) Perform an inspection of the mount lug run-outs, before exceeding 2,200 flight cycles since new (FCSN). Use Section 3.A., 3.B., or 3.C. of RR Alert Non-Modification Service Bulletin (NMSB) No. RB.211–72–AG971, Revision 1, dated September 27, 2013, to do the inspection. Thereafter, inspect every 2,200 flight cycles (FC).

(ii) For a TBH with 900 FCSN or less on the effective date of this AD, perform an inspection of the mount lug forging leading edge (LE) areas and fail safe catcher, before exceeding 1,000 FCSN. Use Section 3.A., or 3.B. of RR Alert NMSB No. RB.211–72–AH154, Revision 1, dated June 18, 2013; or Section 3.B. or 3.C. of RR Alert NMSB No. RB.211–72–AG971, Revision 1, dated September 27, 2013, to do the inspection. Thereafter, inspect every 1,000 FC.

(iii) For a TBH with more than 900 FCSN on the effective date of this AD, perform an inspection of the mount lug forging LE areas and fail safe catcher, within 100 FC. Use Section 3.A. or 3.B. of RR Alert NMSB No. RB.211–72–AH154, Revision 1, dated June

18, 2013; or Section 3.B. or 3.C. of RR Alert NMSB No. RB.211–72–AG971, Revision 1, dated September 27, 2013, to do the inspection. Thereafter, inspect every 1,000 FC.

(iv) Perform an inspection of the top core vanes, before exceeding 3,800 FCSN. Use Section 3.C. of RR Alert NMSB No. RB.211–72–AG971, Revision 1, dated September 27, 2013, to do the inspection. Thereafter, inspect every 3,800 FC.

(2) If any inspection required by paragraph (e)(1) of this AD fails, remove the TBH from service.

(3) Remove any TBH from service before the TBH exceeds 17,200 FCSN.

(f) Credit for Previous Actions

(1) If, before the effective date of this AD, you performed inspections and corrective actions using RR Alert NMSB No. RB.211–72–AG971, dated September 20, 2012 or RR Alert NMSB No. RB.211–72–AH154, dated June 13, 2013; you met the requirements of paragraph (e)(1) of this AD.

(2) If, before the effective date of this AD, the last in-shop inspection of the mount lug run-outs was accomplished using Section 3.C. of RR Alert NMSB No. RB.211–72–AG971, dated September 20, 2012, the compliance time interval for the next on-wing or in-shop inspection of the fail safe catcher, as required by paragraphs (e)(1)(ii) and (e)(1)(iii) of this AD, may be counted from that last in-shop inspection of the mount lug run-outs.

(3) If, before the effective date of this AD, you performed inspections and corrective actions using RR Technical Variance (TV) No. 124801, Issue 2, dated July 4, 2012 or earlier versions; or TV No. 124851, Issue 2, dated July 4, 2012 or earlier versions; you met the requirements of paragraph (e)(1)(i) of this AD.

(4) If, before the effective date of this AD, you performed inspections and corrective actions using RR TV No. 132043, Issue 1, dated March 25, 2013 or earlier versions; or TV No. 132217, Issue 5, dated May 23, 2013 or earlier versions; you met the requirements of paragraphs (e)(1)(ii) and (e)(1)(iii) of this AD.

(5) Any inspections and corrective actions performed are not terminating action for the repetitive inspections required by paragraph (e)(1) of this AD.

(g) Alternative Methods of Compliance (AMOCs)

The Manager, Engine Certification Office, FAA, may approve AMOCs to this AD. Use the procedures found in 14 CFR 39.19 to make your request.

(h) Related Information

(1) For more information about this AD, contact Anthony W. Cerra, Jr., Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7128; fax: 781–238–7199; email: *anthony.cerra@faa.gov.*

(2) Refer to MCAI European Aviation Safety Agency AD 2013–0240 (correction), dated October 4, 2013, for more information. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2013–1015.

(3) RR Repeater TV No. 132043, Repeater TV No. 132217, TV No. 124801, and TV No. 124851, which are not incorporated by reference in this AD, can be obtained from RR, using the contact information in paragraph (i)(3) of this AD.

(4) You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

(i) Material Incorporated by Reference

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

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

(i) Rolls-Royce plc Alert Non-Modification Service Bulletin (NMSB) No. RB.211–72–AG971, Revision 1, dated September 27, 2013.

(ii) Rolls-Royce plc Alert NMSB No. RB.211–72–AH154, Revision 1, dated June 18, 2013.

(3) For service information identified in this AD, contact Rolls-Royce plc, Corporate Communications, P.O. Box 31, Derby, England, DE248BJ; phone: 011–44–1332–242424; fax: 011–44–1332–245418, or email: *http://www.rolls-royce.com/contact/civil_team.jsp.*

(4) You may view this service information at FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

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

Issued in Burlington, Massachusetts, on February 27, 2014.

Colleen M. D'Alessandro,

Assistant Directorate Manager, Engine & Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2014–04952 Filed 3–20–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0331; Directorate Identifier 2011–NM–170–AD; Amendment 39–17792; AD 2014–05–19]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain The Boeing Company Model 747–200B, 747–200F, 747–300, 747SP, 747–400, and 747–400F series airplanes equipped with Rolls-Royce RB211–524 engines; and certain Model 767–300 series airplanes equipped with Rolls-Royce RB211–524 engines. This AD was prompted by multiple reports of uncommanded thrust reverser unlock events. This AD requires replacing certain relays and relay sockets, and doing wiring changes. For certain airplanes, this AD also requires installing new relay panels, and removing and installing certain components. Additionally, this AD requires, for certain airplanes, accomplishing concurrent actions, which include installing an additional locking system on the thrust reversers and modifying system wiring for in-flight fault indications of the thrust reverser system. We are issuing this AD to prevent an uncommanded thrust reverser deployment during takeoff or in flight, resulting in decreased airplane control and performance, possible runway excursions, and failure to climb.

DATES: This AD is effective April 25, 2014.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of April 25, 2014.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of February 18, 2000 (65 FR 5222, February 3, 2000).

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of September 14, 1994 (59 FR 41647, August 15, 1994).

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov*; by searching for and locating Docket No. FAA–2013–0331; or in person at the Docket

Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Tung Tran, Aerospace Engineer, Propulsion Branch, ANM–140S, Seattle Aircraft Certification Office (ACO), FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6505; fax: 425–917–6590; email: *Tung.Tran@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model 747–200B, 747–200F, 747–300, 747SP, 747–400, and 747–400F series airplanes equipped with Rolls-Royce RB211–524 engines; and certain Model 767–300 series airplanes equipped with Rolls-Royce RB211–524 engines. The NPRM published in the **Federal Register** on April 17, 2013 (78 FR 22802). The NPRM was prompted by multiple reports of uncommanded thrust reverser unlock events. The NPRM proposed to require replacing certain relays and relay sockets, and doing wiring changes. For certain airplanes, the NPRM proposed to require installing new relay panels, and removing and installing certain components. Additionally, the NPRM proposed to require, for certain airplanes, accomplishing concurrent actions, which include installing an additional locking system on the thrust reversers, installing an additional locking gearbox on each engine and modifying system wiring for in-flight fault indications of the thrust reverser system, and installing a second locking gearbox system on the thrust reversers. We are issuing this AD to prevent an uncommanded thrust reverser deployment during takeoff or in flight, resulting in decreased airplane control and performance, possible runway excursions, and failure to climb.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal (78 FR 22802, April 17, 2013) and the FAA's response to each comment.

Support for the NPRM (78 FR 22802, April 17, 2013)

Boeing stated that it concurred with the contents of the NPRM (78 FR 22802, April 17, 2013).

The Air Line Pilots Association International stated that it agrees with the intent of the NPRM (78 FR 22802, April 17, 2013).

Request To Specify Thrust Reverser Unit (TRU) Part Numbers

Rolls-Royce plc requested that instead of specifying the engine models, we specify the part numbers of the affected TRUs for tracking purposes. Rolls-Royce plc stated that the TRUs are swapped from engine to engine, and AD compliance would be difficult to track unless it is tracked based on the TRUs.

We do not agree with the commenter's request. This final rule only requires changes to the control logic of the thrust reverser by modifying the associated electrical panels on the airplane. There is no requirement for TRU hardware replacement. Therefore, it is unnecessary to specify the part numbers of the affected TRUs in this final rule. We have not changed this final rule in this regard.

Statement of Financial Impact

Rolls-Royce plc stated that it is likely the actions required by the NPRM (78 FR 22802, April 17, 2013) will have a significant financial affect upon Middle Eastern and Far East operations. Rolls-Royce plc did not request any change to the NPRM in this regard.

The commenter did not provide specific information to substantiate why Middle Eastern and Far East operations would be uniquely affected. The Costs of Compliance paragraph in this final rule is based on estimates provided in the service information and is an estimate of costs incurred by United States operators. We have not changed this final rule in this regard.

Changes to This Final Rule

We clarified the required actions specified in the SUMMARY section of this final rule by removing the wording ''installing an additional locking system on the thrust reversers'' and ''installing a second locking gearbox system on the thrust reversers.'' These actions are included in the phrase ''installing an additional locking system on the thrust reversers.'' No change has been made to the actions required by this final rule.

We revised paragraph (b) of this final rule to indicate that this final rule affects the requirements of AD 2000–01–05, Amendment 39–11502 (65 FR 1051, January 7, 2000).

We revised paragraph (h)(2) of this final rule to clarify that the installation of an additional gearbox is on the thrust reverser of each engine, rather than on each engine.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (78 FR 22802, April 17, 2013) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (78 FR 22802, April 17, 2013).

Costs of Compliance

We estimate that this AD affects 1 airplane of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Replacement and wiring change for Model 747–200B, 747–200F, 747–300, and 747SP series airplanes (1 U.S.-registered airplane).	30 work-hours × $85 per hour = $2,550	$4,289	$6,839	$6,839

ESTIMATED COSTS—Continued

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Removal, installations, and wiring changes for Model 747–400 and 747–400F series airplanes (0 U.S.-registered airplanes).	Up to 90 work-hours × $85 per hour = $7,650.	Up to $16,607	Up to $24,257	0
Replacements and wiring changes for Model 767–300 series airplanes (0 U.S.-registered airplanes).	Up to 32 work-hours × $85 per hour = $2,720.	Up to $2,245	Up to $4,965	0

We estimate the following costs to do any necessary concurrent requirements. We have no way of determining the number of aircraft that might need accomplishment of the concurrent requirements.

CONCURRENT COSTS

Action	Labor cost	Parts cost	Cost per product
Installation of an additional locking system for Model 747–200B, 747–200F, 747–300, and 747SP series airplanes.	336 work-hours × $85 per hour = $28,560	$62,674	$91,234
Installation of an additional locking gearbox on each engine and modification of the system wiring for Model 747–400 and 747–400F series airplanes.	185 work-hours × $85 per hour = $15,725	72,860	88,585
Installation of a second locking gearbox system for Model 767–300 series airplanes.	754 work-hours × $85 per hour = $64,090	0	64,090

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2014–05–19 The Boeing Company: Amendment 39–17792; Docket No. FAA–2013–0331; Directorate Identifier 2011–NM–170–AD.

(a) Effective Date

This AD is effective April 25, 2014.

(b) Affected ADs

This AD affects the requirements of AD 2000–01–05, Amendment 39–11502 (65 FR 1051, January 7, 2000).

(c) Applicability

This AD applies to The Boeing Company airplanes, certificated in any category, identified in paragraphs (c)(1), (c)(2), and (c)(3) of this AD, and equipped with Rolls-Royce RB211–524 engines.

(1) Model 747–200B, 747–200F, 747–300, and 747SP series airplanes, as identified in Boeing Service Bulletin 747–78–2178, Revision 1, dated August 4, 2011.

(2) Model 747–400 and 747–400F series airplanes, as identified in Boeing Service Bulletin 747–78–2180, Revision 2, dated November 11, 2011.

(3) Model 767–300 series airplanes, as identified in Boeing Service Bulletin 767–78–0096, Revision 1, dated December 10, 2009.

(d) Subject

Joint Aircraft System/Component (JASC) Code 7830, Engine Thrust Reverser.

(e) Unsafe Condition

This AD was prompted by multiple reports of uncommanded thrust reverser unlock events, three of which had all three locks disengaged. We are issuing this AD to prevent an uncommanded thrust reverser deployment during takeoff or in flight resulting in decreased airplane control and performance, possible runway excursions, and failure to climb.

(f) Compliance

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

(g) Replacement

Within 60 months after the effective date of this AD: Do the actions specified in paragraphs (g)(1), (g)(2), and (g)(3) of this AD, as applicable.

(1) For Model 747–200B, 747–200F, 747–300, and 747SP series airplanes: Replace relays and relay sockets in the P252 and P253 panels with new relays and relay sockets, and do wiring changes, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 747–78–2178, Revision 1, dated August 4, 2011.

(2) For Model 747–400 and 747–400F series airplanes: Install the components removed from the existing P252 and P253 panels, install new relays and relay sockets, and do wiring changes on the new P252 and P253 relay panels, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 747–78–2180, Revision 2, dated November 11, 2011.

(3) For Model 767–300 series airplanes: Replace relays and relay sockets in the P36 and P37 panels with new relays and relay sockets, and do wiring changes in the P33, P36, and P37 panels, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 767–78–0096, Revision 1, dated December 10, 2009.

(h) Concurrent Requirements

(1) For Model 747–200B, 747–200F, 747–300, and 747SP series airplanes: Prior to or concurrently with accomplishing the actions required by paragraph (g)(1) of this AD, install an additional locking system on the thrust reversers, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 747–78–2156, Revision 1, dated August 30, 2001. Accomplishing this installation is a method of compliance with the installation required by paragraph (c) of AD 2000–01–05, Amendment 39–11502 (65 FR 1051, January 7, 2000).

(2) For Model 747–400 and 747–400F series airplanes identified as Group 1, 2, 3, 4, 7, 8, or 9 airplanes in Boeing Service Bulletin 747–78–2180, Revision 2, dated November 11, 2011: Prior to or concurrently with accomplishing the actions required by paragraph (g)(2) of this AD, install an additional locking gearbox on the thrust reversers of each engine and modify system wiring for in-flight fault indications of the thrust reverser system, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 747–78–2158, Revision 2, dated July 29, 1999.

Note 1 to paragraph (h)(2) of this AD: Paragraph (a)(1) of AD 2000–02–22, Amendment 39–11540 (65 FR 5222, February 3, 2000), refers to Boeing Service Bulletin 747–78–2158, Revision 2, dated July 29, 1999, as the appropriate source of service information for accomplishing the installation required by that paragraph.

(3) For Model 767–300 series airplanes identified as Group 2 airplanes in Boeing Service Bulletin 767–78–0096, Revision 1, dated December 10, 2009: Prior to or concurrently with accomplishing the actions required by paragraph (g)(3) of this AD, install a second locking gearbox system on the thrust reversers, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 767–78–0059, Revision 3, dated January 20, 1994.

Note 2 to paragraph (h)(3) of this AD: Paragraph (c) of AD 94–17–03, Amendment 39–8998 (59 FR 41647, August 15, 1994), refers to Boeing Service Bulletin 767–78–0059, Revision 3, dated January 20, 1994, as an appropriate source of service information for accomplishing the installation required by that paragraph.

(i) Credit for Previous Actions

(1) This paragraph provides credit for the requirements of paragraph (g)(1) of this AD, if those actions were performed before the effective date of this AD using Boeing Service Bulletin 747–78–2178, dated January 22, 2009, which is not incorporated by reference in this AD.

(2) This paragraph provides credit for the requirements of paragraph (g)(2) of this AD, if those actions were performed before the effective date of this AD using Boeing Service Bulletin 747–78–2180, dated April 10, 2008, which is not incorporated by reference in this AD.

(3) This paragraph provides credit for the requirements of paragraph (g)(2) of this AD, if those actions were performed before the effective date of this AD using Boeing Service Bulletin 747–78–2180, Revision 1, dated November 11, 2010, which is not incorporated by reference in this AD.

(4) This paragraph provides credit for the requirements of paragraph (g)(3) of this AD, if those actions were performed before the effective date of this AD using Boeing Service Bulletin 767–78–0096, dated August 7, 2008, which is not incorporated by reference in this AD.

(5) This paragraph provides credit for the requirements of paragraph (h)(1) of this AD, if those actions were performed before the effective date of this AD using Boeing Service Bulletin 747–78–2156, dated October 31, 1996, which was incorporated by reference in AD 99–18–03, Amendment 39–11269 (64 FR 47365, August 31, 1999).

Note 3 to paragraph (i)(5) of this AD: Paragraph (c) of AD 2000–01–05, Amendment 39–11502 (65 FR 1051, January 7, 2000), refers to Boeing Service Bulletin 747–78–2156, dated October 31, 1996, as the appropriate source of service information for accomplishing the installation required by that paragraph.

(6) This paragraph provides credit for the requirements of paragraph (h)(2) of this AD, if those actions were performed before the effective date of this AD using Boeing Service Bulletin 747–78–2158, Revision 1, dated January 22, 1998, which is not incorporated by reference in this AD.

Note 4 to paragraph (i)(6) of this AD: In AD 2000–02–22, Amendment 39–11540 (65 FR 5222, February 3, 2000), Note 2 to paragraph (a)(1) of AD 2000–02–22 refers to Boeing Service Bulletin 747–78–2158, Revision 1, dated January 22, 1998, as a method of compliance for accomplishing the installation required by paragraph (a)(1) of AD 2000–02–22.

(7) This paragraph provides credit for the requirements of paragraph (h)(3) of this AD, if those actions were performed before the effective date of this AD using Boeing Service Bulletin 767–78–0059, Revision 2, dated June 10, 1993, which is not incorporated by reference in this AD, which was incorporated by reference in AD 94–17–03, Amendment 39–8998 (59 FR 41647, August 15, 1994).

Note 5 to paragraph (i)(7) of this AD: Paragraph (c) of AD 94–17–03, Amendment 39–8998 (59 FR 41647, August 15, 1994), refers to Boeing Service Bulletin 767–78–0059, Revision 2, dated June 10, 1993, as an appropriate source of service information for accomplishing the installation required by that paragraph.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (k) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization that has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(k) Related Information

(1) For more information about this AD, contact Tung Tran, Aerospace Engineer, Propulsion Branch, ANM–140S, Seattle Aircraft Certification Office (ACO), FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6505; fax: 425–917–6590; email: *Tung.Tran@faa.gov.*

(2) Service information identified in this AD that is not incorporated by reference may be obtained at the addresses specified in paragraphs (l)(6) and (l)(7) of this AD.

(l) Material Incorporated by Reference

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

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

(3) The following service information was approved for IBR on April 25, 2014.

(i) Boeing Service Bulletin 747–78–2156, Revision 1, dated August 30, 2001.

(ii) Boeing Service Bulletin 747–78–2178, Revision 1, dated August 4, 2011.

(iii) Boeing Service Bulletin 747–78–2180, Revision 2, dated November 11, 2011.

(iv) Boeing Service Bulletin 767–78–0096, Revision 1, dated December 10, 2009.

(4) The following service information was approved for IBR on February 18, 2000 (65 FR 5222, February 3, 2000).

(i) Boeing Service Bulletin 747–78–2158, Revision 2, dated July 29, 1999.

(ii) Reserved.

(5) The following service information was approved for IBR on September 14, 1994 (59 FR 41647, August 15, 1994).

(i) Boeing Service Bulletin 767–78–0059, Revision 3, dated January 20, 1994.

(ii) Reserved.

(6) For Boeing service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.*

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

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

Issued in Renton, Washington, on February 19, 2014.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–06155 Filed 3–20–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–1023; Directorate Identifier 2013–NM–042–AD; Amendment 39–17797; AD 2014–05–24]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 84–19–01 for certain The Boeing Company Model 747–100, 747–200B, and 747–200F series airplanes. AD 84–19–01 required repetitive inspections for cracking of certain tension ties, and repair and certain modifications if necessary. This new AD requires, for certain airplanes, additional inspections for cracking of the tension tie at body station (BS) 760 or 780, corrective action if necessary, and eventual modification of the tension ties. For all airplanes, this new AD requires repetitive post-modification inspections for cracking of the tension tie at BS 760 or 780, and corrective action if necessary. This AD was prompted by reports of cracking in the BS 760 tension tie as a result of bending due to cabin pressurization. We are issuing this AD to detect and correct tension tie cracking, which could eventually result in in-flight depressurization of the airplane and the inability to withstand current regulatory failsafe loads.

DATES: This AD is effective April 25, 2014.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of April 25, 2014.

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2013–1023; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Nathan Weigand, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6428; fax: 425–917–6590; email: *Nathan.P.Weigand@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 84–19–01, Amendment 39–4913 (Docket No. 84–NM–10–AD; 49 FR 36365, September 17, 1984). AD 84–19–01 applied to certain Boeing Model 747–100, 747–200B, and 747–200F series airplanes. The NPRM published in the **Federal Register** on December 6, 2013 (78 FR 73457). The NPRM was prompted by reports of cracking in the BS 760 tension tie as a result of bending due to cabin pressurization. The NPRM proposed to continue to require repetitive inspections for cracking of certain tension ties, and repair and certain modifications if necessary. The NPRM also proposed to require, for certain airplanes, additional inspections for cracking of the tension tie at BS 760 or 780, corrective action if necessary, and eventual modification of the tension ties. For all airplanes, the NPRM also proposed to require repetitive post-modification inspections for cracking of the tension tie at BS 760 or 780, and corrective action if necessary. We are issuing this AD to detect and correct tension tie cracking, which could eventually result in in-flight depressurization of the airplane and the inability to withstand current regulatory failsafe loads.

Comments

We gave the public the opportunity to participate in developing this AD. We have considered the comment received. Boeing supported the NPRM (78 FR 73457, December 6, 2013).

Conclusion

We reviewed the relevant data, considered the comment received, and determined that air safety and the public interest require adopting this AD as proposed except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (78 FR 73457, December 6, 2013) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (78 FR 73457, December 6, 2013).

Costs of Compliance

We estimate that this AD affects 24 airplanes of U.S. registry. We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Number of U.S. airplanes	Cost on U.S. operators
Inspection	3 work-hours × $85 per hour = $255 per inspection cycle.	$0	$255 per inspection cycle.	Up to 24	$6,120 per inspection cycle.
Modification	32 work-hours × $85 per hour = $2,720.	672	$3,392	Up to 24	$81,408.

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this AD.

According to the manufacturer, some of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 84–19–01, Amendment 39–4913 (Docket No. 84–NM–10–AD; 49 FR 36365, September 17, 1984), and adding the following new AD:

2014–05–24 The Boeing Company: Amendment 39–17797; Docket No. FAA–2013–1023; Directorate Identifier 2013–NM–042–AD.

(a) Effective Date

This AD is effective April 25, 2014.

(b) Affected ADs

This AD supersedes AD 84–19–01, Amendment 39–4913 (Docket No. 84–NM–10–AD; 49 FR 36365, September 17, 1984).

(c) Applicability

This AD applies to The Boeing Company Model 747–100, 747–200B, and 747–200F series airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin 747–53A2088, Revision 4, dated January 11, 2013.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Unsafe Condition

This AD was prompted by reports of cracking in the body station (BS) 760 tension tie as a result of bending due to cabin pressurization. We are issuing this AD to detect and correct tension tie cracking, which could eventually result in in-flight depressurization of the airplane and the inability to withstand current regulatory failsafe loads.

(f) Compliance

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

(g) Repetitive Inspections: Unmodified Airplanes

For airplanes that have not been modified as specified in Boeing Service Bulletin 747–53–2088: At the applicable time specified in Table 1 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2088, Revision 4, dated January 11, 2013, except as required by paragraph (j)(1) of this AD, do detailed (close visual) and surface high frequency eddy current inspections for cracking of the tension tie at BS 760 or 780, as applicable, and do all applicable corrective actions, in accordance with Part I of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2088, Revision 4, dated January 11, 2013, except as required by paragraph (j)(2) of this AD. Do all applicable corrective actions before further flight. Repeat the inspections thereafter at the applicable time specified in Table 1 or Table 2 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2088, Revision 4, dated January 11, 2013, until accomplishment of the requirements of paragraph (h) of this AD.

(h) Modification

For airplanes that have not been modified as specified in Boeing Service Bulletin 747–53–2088: At the applicable time specified in Table 1 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2088, Revision 4, dated January 11, 2013, except as required by paragraph (j)(1) of this AD, modify the tension ties, including doing an open-hole high frequency eddy current inspection for cracks, as applicable, and all applicable corrective actions, in accordance with Part III of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2088, Revision 4, dated January 11, 2013, except as required by paragraph (j)(2) of this AD. All applicable corrective actions must be done before further flight. This modification terminates the repetitive inspection requirements of paragraph (g) of this AD.

(i) Post-modification Repetitive Inspections

For airplanes that have been modified as specified in Boeing Service Bulletin 747–53–

2088: At the applicable time specified in Table 2 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2088, Revision 4, dated January 11, 2013, do a detailed inspection for cracking of the tension tie at BS 760 or 780, and do all applicable corrective actions, in accordance with Part I of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2088, Revision 4, dated January 11, 2013, except as required by paragraph (j)(2) of this AD. Do all applicable corrective actions before further flight. Repeat the inspection thereafter at the applicable time specified in Table 2 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2088, Revision 4, dated January 11, 2013. Boeing Alert Service Bulletin 747–53A2088, Revision 4, dated January 11, 2013, notes that additional post-modification inspections are specified in Boeing Service Bulletin 747–53A2502; those post-modification inspections are required by AD 2006–01–07, Amendment 39–14446 (71 FR 1947, January 12, 2006).

(j) Exceptions to Service Information Specifications

(1) Where Boeing Alert Service Bulletin 747–53A2088, Revision 4, dated January 11, 2013, specifies a compliance time ''after the Revision 4 date of this service bulletin,'' this AD requires compliance within the specified compliance time after the effective date of this AD.

(2) Where Boeing Alert Service Bulletin 747–53A2088, Revision 4, dated January 11, 2013, specifies to contact Boeing for appropriate action: Before further flight, repair using a method approved in accordance with the procedures specified in paragraph (m) of this AD.

(k) Credit for Previous Actions

This paragraph provides credit for the actions specified in this AD, if those actions were performed before the effective date of this AD using Boeing Alert Service Bulletin 747–53A2088, Revision 3, dated September 8, 1994, which is not incorporated by reference in this AD.

(l) Special Flight Permit

Special flight permits, as described in Section 21.197 and Section 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199), are not allowed.

(m) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (n)(1) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(4) AMOCs approved for AD 84–19–01, Amendment 39–4913 (Docket No. 84–NM–10–AD; 49 FR 36365, September 17, 1984), are approved as AMOCs for the corresponding requirements of paragraph (g) (the retained detailed inspections) and paragraph (i) of this AD, but not as AMOCs for the high frequency eddy current inspections required by paragraph (g) of this AD.

(n) Related Information

(1) For more information about this AD, contact Nathan Weigand, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6428; fax: 425–917–6590; email: *Nathan.P.Weigand@faa.gov.*

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

(o) Material Incorporated by Reference

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

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

(i) Boeing Alert Service Bulletin 747–53A2088, Revision 4, dated January 11, 2013.

(ii) Reserved.

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.*

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

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

Issued in Renton, Washington, on February 26, 2014.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–06153 Filed 3–20–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–0051; Directorate Identifier 2007–NE–37–AD; Amendment 39–17801; AD 2014–05–29]

RIN 2120–AA64

Airworthiness Directives; Continental Motors, Inc. Reciprocating Engines With Superior Air Parts, Inc. (SAP) Cylinder Assemblies Installed

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are superseding airworthiness directive (AD) 2009–16–03 for certain Continental Motors, Inc. (CMI) IO–520, TSIO–520, and IO–550 series reciprocating engines, with certain SAP replacement parts manufacturer approval (PMA) investment cast cylinder assemblies installed. AD 2009–16–03 required initial and repetitive inspections and compression tests to detect cracks in those cylinders. This new AD requires that additional engines be added to the applicability. This AD was prompted by the need to add to the applicability all other engine models approved for the use of CMI 520 and 550 cylinder assemblies, such as the CMI 470 series engines when modified by supplemental type certificate (STC), with affected SAP investment cast cylinder assemblies installed. We are issuing this AD to prevent the separation of the cylinder head, damage to the engine, and damage to the airplane.

DATES: This AD is effective April 25, 2014.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of April 25, 2014.

ADDRESSES: For service information identified in this AD, contact Continental Motors, Inc., 2039 Broad St., Mobile, AL 36615; phone: 251–438–3411; Web site: *http://www.continentalmotors.aero/Support_Materials/Publications/Service_Bulletins/.* You may view this service

information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2007–0051; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT:

Peter W. Hakala, Aerospace Engineer, Special Certification Office, FAA, Rotorcraft Directorate, 2601 Meacham Blvd., Fort Worth, TX 76137; phone: 817–222–5145; fax: 817–222–5785; email: *peter.w.hakala@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2009–16–03, Amendment 39–15986 (74 FR 38896, August 5, 2009), (''AD 2009–16–03''). AD 2009–16–03 applied to the specified products. The NPRM published in the **Federal Register** on September 13, 2013 (78 FR 56622). The NPRM proposed to continue to require initial and repetitive inspections and compression tests to detect cracks in certain replacement SAP PMA investment cast cylinder assemblies. The NPRM also proposed to require that additional engines be added to the applicability. We are issuing this AD to prevent the separation of the cylinder head, damage to the engine, and damage to the airplane.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal and the FAA's response to each comment.

Request To Delete Requirement To Remove Cylinders After 12 Years

SAP requested that we delete paragraph (i)(2), which requires the removal of cylinders after 12 years, stating that removal is not necessary if the required periodic 50-hour inspections show that the cylinders have no defects and are still airworthy.

We disagree. The 12-year calendar requirement is due to the increased risk of environmental corrosion, a corresponding increase in potential for metal fatigue cracks, and the subsequent separation of the cylinder assemblies. The type certificate holder recommends removal and replacement of the cylinders no later than 12 years from date placed in service. We did not change this AD.

Request To Delete From Applicability the Additional Engines Identified by This Supersedure AD, and To Cancel This AD

SAP requested that we delete from the applicability of this AD the Continental Motors, Inc. model CMI 470 series engines that are added to the applicability of this supersedure AD, and that we cancel this supersedure AD. SAP is not aware of any problems with the investment cast SAP cylinders installed on CMI model 470 series engines modified by STC to install SAP 520 cylinder assemblies.

We disagree. We are not aware of data that would indicate that the failure mode of SAP 520 cylinder assemblies identified in this AD would not also exist in the comparatively small population of CMI model 470 series engines modified by STC. We did not change this AD.

Request To Allow Reinstallation of Removed Cylinders

SAP requested that we change paragraph (j) to allow reinstallation of cylinders that have been removed for maintenance because the removal and reinstallation of a cylinder does not impact cylinder head fatigue.

We disagree. The purpose of this AD is to correct an unsafe condition by removing from service SAP investment cast cylinder assemblies. We did not change this AD.

Conclusion

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

Costs of Compliance

We estimate that this AD affects 6,000 engines installed on airplanes of U.S. registry. We also estimate that it will take about 5 hours to replace a cylinder, and 15 hours per engine to inspect the cylinders. The average labor rate is $85 per hour. Required parts will cost about $1,200 per cylinder. We anticipate that 4,000 cylinders will require replacement. Based on these figures, we estimate the total cost of this AD to U.S. operators to be $14,150,000.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

(3) Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction, and

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing airworthiness directive (AD) 2009–16–03, Amendment 39–15986 (74 FR 38896, August 5, 2009), and adding the following new AD:

2014–05–29 Continental Motors, Inc. (formerly Teledyne Continental Motors, Continental): Amendment 39–17801; Docket No. FAA–2007–0051; Directorate Identifier 2007–NE–37–AD.

(a) Effective Date

This AD is effective April 25, 2014.

(b) Affected ADs

This AD supersedes AD 2009–16–03, Amendment 39–15986 (74 FR 38896, August 5, 2009).

(c) Applicability

This AD applies to:

(1) Continental Motors, Inc. (CMI) IO–520, TSIO–520, and IO–550 series reciprocating engines with replacement Superior Air Parts, Inc. (SAP) parts manufacturer approval (PMA) investment cast cylinder assemblies, part numbers (P/Ns) SA52000–A1, SA52000–A20P, SA52000–A21P, SA52000–A22P, SA52000–A23P, SA55000–A1, or SA55000–A20P, installed.

(2) All other engine models approved for the use of CMI 520 and 550 cylinder assemblies such as the CMI 470 series engines when modified by Supplemental Type Certificate (STC), with SAP investment cast cylinder assemblies, P/Ns SA52000–A1, SA52000–A20P, SA52000–A21P, SA52000–A22P, SA52000–A23P, SA55000–A1, or SA55000–A20P, installed.

(3) This AD applies to all serial numbers for the P/Ns listed in paragraphs (c)(1) and (c)(2) of this AD.

(4) If no SAP replacement cylinders were installed during engine maintenance since the CMI engines were new, then this AD does not apply.

(d) Unsafe Condition

This AD was prompted by the need to add to the applicability all other engine models approved for the use of CMI 520 and 550 cylinder assemblies such as the CMI 470 series engines when modified by STC, with affected SAP investment cast cylinder assemblies installed. We are issuing this AD to prevent the separation of the cylinder head, damage to the engine, and damage to the airplane.

(e) Compliance

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

(f) Identification of SAP Cylinder Assemblies

Seeing the SAP cylinder assembly P/Ns referenced in paragraphs (c)(1) and (c)(2) of this AD may be difficult because the assembly P/Ns are stamped on the bottom cylinder flange. Therefore, you may review the engine maintenance records instead of the steps listed in paragraphs (f)(1) and (f)(2) of this AD, to see if the engine records identify the P/Ns of the cylinders installed. If the records do not identify the P/Ns of the cylinders installed, do the following:

(1) Remove the valve cover from the cylinder assembly.

(2) Look at the top of the cylinder head for the casting markings ''AMCAST'' or ''CP'' (note that the cylinder head casting part number, P/N SAC 52001 ''I'' or P/N SAC 55001 ''I'', will also be visible). If a cylinder head has these markings, do the steps required by paragraphs (g) through (j) of this AD.

(g) Initial Inspection of SAP Cylinder Assemblies

For engines and cylinders listed in paragraphs (c)(1) and (c)(2) of this AD, with cylinders over 750 flight hours (FH) time-in-service (TIS) on the effective date of this AD, do the following initial inspection within 25 FH TIS.

(1) Inspect each cylinder head around the exhaust valve side for visual cracks or any signs of black combustion leakage.

(2) Replace any cracked or leaking cylinders before further flight.

(3) Perform a standard cylinder compression test. Guidance on standard cylinder compression tests can be found in Teledyne Continental Aircraft Engine Service Bulletin SB03–3, Differential Pressure Test and Borescope Inspection Procedures for Cylinders, dated March 28, 2003.

(i) If the cylinder pressure gauge reads below 60 pounds per square inch, determine if the unacceptable pressure is due to a cracked cylinder.

(ii) To check the cylinder, apply a 2-percent soapy water solution to the side of the leaking cylinder.

(iii) If you see air bubbles, indicating air leakage, on the side of the cylinder head, or near the head-to-cylinder interface, replace the cylinder assembly before further flight.

(h) Repetitive Inspections of SAP Cylinder Assemblies

Thereafter, repeat the cylinder visual inspections and compression tests specified in paragraphs (g)(1) through (g)(3)(iii) of this AD, within every 50 FH time-since-last inspection until the cylinder reaches the TIS as listed in paragraph (i) of this AD.

(i) Replacing SAP Cylinder Assemblies

For installed cylinders, replace the affected SAP cylinders at the earliest of the following:

(1) When the cylinder reaches the operating hours TIS between overhaul limits specified in Table 1, ''Engine Time Between Overhaul'', in Continental Motors Aircraft Engine Service Information Letter SIL98–9C, Revision C, dated July 17, 2013; or

(2) When the cylinder reaches 12 calendar years-since-installation.

(j) Prohibition Against Installing Certain P/Ns of SAP Cylinder Assemblies

After the effective date of this AD, do not install or reinstall after any removal, any SAP investment cast cylinder assembly, P/Ns SA52000–A1, SA52000–A20P, SA52000–A21P, SA52000–A22P, SA52000–A23P, SA55000–A1, or SA55000–A20P, in any engine.

(k) Alternative Methods of Compliance (AMOCs)

The Manager, Special Certification Office, may approve AMOCs to this AD. Use the procedures found in 14 CFR 39.19 to make your request.

(l) Special Flight Permits

Under 14 CFR Part 39.23, we will not approve special flight permits for this AD for engines that have failed the visual inspection or the 50-hour periodic cylinder assembly compression test required by this AD.

(m) Related Information

For more information about this AD, contact Peter W. Hakala, Aerospace Engineer, Special Certification Office, FAA, Rotorcraft Directorate, 2601 Meacham Blvd., Fort Worth, TX 76137; phone: 817–222–5145; fax: 817–222–5785; email: *peter.w.hakala@faa.gov*.

(n) Material Incorporated by Reference

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

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

(i) Continental Motors Aircraft Engine Service Information Letter SIL98–9C, Revision C, dated July 17, 2013.

(ii) Reserved.

(3) For Continental Motors, Inc. service information identified in this AD, contact Continental Motors, Inc., 2039 Broad St., Mobile, AL 36615; phone: 251–438–3411; Web site: *http://www.continentalmotors.aero/Support_Materials/Publications/Service_Bulletins*.

(4) You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

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

Issued in Burlington, Massachusetts, on March 4, 2014.

Colleen M. D'Alessandro,

Assistant Directorate Manager, Engine & Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2014–06198 Filed 3–20–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2014–0093; Airspace Docket No. 14–AWP–1]

RIN 2120–AA66

Amendment of VOR Federal Airway V–625, Arizona

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; technical amendment.

SUMMARY: This action makes an editorial change to the legal description of VHF Omnidirectional Range (VOR) Federal airway V–625 to reverse the order of points listed in the route description. This action is simply to comply with the standard format for describing routes. The existing alignment of the airway is not affected by this action.

DATES: *Effective Dates:* 0901 UTC, May 29, 2014. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

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

SUPPLEMENTARY INFORMATION:

Background

Current format guidelines for airway and route legal descriptions require that the order of points in a description be listed from ''west-to-east'' or from ''south-to-north,'' as applicable. The description for V–625 lists the points from ''north-to-south.'' This rule simply reverses the order of the points listed in Order 7400.9X to a ''south-to-north'' format for standardization.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by reversing the order of points listed in the legal description of VOR Federal airway V–625. This is only an editorial change to comply with the standard route description format. The change does not alter the current alignment of V–625 and the airway track is correct on aeronautical charts.

Since this action merely involves an editorial change in the legal description of VOR Federal airway V–625 to standardize the format, and does not involve a change in the dimensions or operating requirements of the affected route, I find that notice and public procedures under 5 U.S.C. 553(b) are unnecessary.

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

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

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it is merely an editorial change of the legal description of V–625 to comply with existing administrative format procedures.

Domestic VOR Federal Airways are published in paragraph 6010(a) 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 VOR Federal airway listed in this document will be published subsequently in the Order.

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 consists of editorial changes only and 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 6010(a) Domestic VOR Federal airways.

* * * * *

V–625 [Amended]

From the INT of the United States/Mexican border and the Nogales, AZ, 154° radial; to Nogales.

Issued in Washington, DC, on March 11, 2014.

Gary A. Norek,

Manager, Airspace Policy and Regulations Group.

[FR Doc. 2014–05897 Filed 3–20–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2014–0094; Airspace Docket No. 14–ANM–1]

RIN 2120–AA66

Amendment of VOR Federal Airway V–626, Utah

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; technical amendment.

SUMMARY: This action makes an editorial change to the legal description of VHF Omnidirectional Range (VOR) Federal airway V–626 to reverse the order of

points listed in the route description. This action is simply to comply with the standard format for describing routes. The existing alignment of the airway is not affected by this action.

DATES: *Effective Dates:* 0901 UTC, May 29, 2014. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

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

SUPPLEMENTARY INFORMATION:

Background

Current format guidelines for airway and route legal descriptions require that the order of points in a description be listed from ''west-to-east'' or from ''south-to-north,'' as applicable. The description for V–626 lists the points from ''east-to-west.'' This rule simply reverses the order of the points to a ''west-to-east'' format for standardization.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by reversing the order of points listed in the legal description of VOR Federal airway V–626. This is only an editorial change to comply with the standard route description format. The change does not alter the current alignment of V–626 and the airway track is correct on aeronautical charts.

Since this action merely involves an editorial change in the legal description of VOR Federal airway V–626 to standardize the format, and does not involve a change in the dimensions or operating requirements of the affected route, I find that notice and public procedures under 5 U.S.C. 553(b) are unnecessary.

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

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

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it is merely an editorial change of the legal description of V–626 to comply with existing administrative format procedures.

Domestic VOR Federal Airways are published in paragraph 6010(a) 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 VOR Federal airway listed in this document will be published subsequently in the Order.

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 consists of editorial changes only and 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 6010(a) Domestic VOR Federal airways.

* * * * *

V–626 [Amended]

From INT Fairfield, UT, 126° and Myton, UT, 264° radials; to Myton.

Issued in Washington, DC, on March 11, 2014.

Gary A. Norek,

Manager, Airspace Policy and Regulations Group.

[FR Doc. 2014–05896 Filed 3–20–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–0915; Airspace Docket No. 12–ASO–41]

RIN 2120–AA66

Modification, Revocation, and Establishment of Area Navigation (RNAV) Routes; Charlotte, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes two RNAV routes; modifies three RNAV routes; and removes one RNAV route in the Charlotte, NC, area. These changes, in combination with existing VOR Federal airways, provide additional routing options through and around the Charlotte, NC area.

DATES: Effective date 0901 UTC, May 29, 2014. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

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

SUPPLEMENTARY INFORMATION:

History

On December 19, 2013, the FAA published in the **Federal Register** a

notice of proposed rulemaking (NPRM) to establish 2 RNAV routes; modify 3 RNAV routes; and remove 1 RNAV route in the Charlotte, NC, area (78 FR 76784). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. One comment was received. The Aircraft Owners and Pilots Association expressed support for the proposal.

Differences From the NPRM

The NPRM stated that this action would support the Charlotte Optimization of Airspace and Procedures in a Metroplex (OAPM) Project. That statement resulted in some confusion over the status of the T-route proposal versus the Metroplex project. To clarify, while these new routes will enhance airspace efficiency in the Charlotte Metroplex area, the T-routes in this rule have independent utility from the Metroplex project and the environmental evaluations were conducted independently.

The Rule

The FAA is amending Title 14, Code of Federal Regulations (14 CFR) part 71 to establish 2 low-altitude RNAV routes (T–206 and T–214); modify 3 RNAV routes (T–201, T–202 and T–203); and remove 1 RNAV route (T–200), in the Charlotte, NC, area. The route changes are described below.

T–200: T–200, extending between the foothills, GA, VORTAC and the Florence, SC, VORTAC, is removed in its entirety. T–200 is seldom used because it traverses very close to the ''final box'' for Charlotte/Douglas International Airport (CLT) when CLT is landing to the north. The modified T–202 (see below) provides routing through the south end of the CLT Class B airspace area in place of T–200.

T–201: T–201, extending between the Columbia, SC, VORTAC (CAE) and the JOTTA, NC, fix, is shortened to extend between the MEVAE, SC, waypoint (WP) (near Bethune, SC) at the south end, and the BORTZ, NC, WP (south of the JOTTA fix) at the north end. In addition, the track of the route is shifted approximately 7 nautical miles (NM) to the east of its current position. The shift moves the route to the east of the CLT Class B airspace area where it passes through the FEGNO, NC, WP instead of the LOCAS, NC, fix (on the eastern boundary of the Class B airspace area). T–201 segregates low altitude overflight traffic from CLT departure and arrival traffic. Waypoints along the route provide connectivity with RNAV routes T–202, T–206 and T–214 (described below).

T–202: T–202 is extended at both ends: northeastward from the GANTS fix to the ZADEL WP (near Asheboro Municipal Airport [HBI], NC); and westward from the RICHE fix to the GURSH WP (near Union County Airport [35A], SC). T–202 utilizes airspace around the south of CLT when CLT is landing and departing to the south. That segment from the RICHE WP to the HUSTN WP segregates T–202 traffic from CLT departures. Waypoints along the route provide connectivity to T–201, T–206 and T–214.

T–203: T–203, extending between the Columbia, SC, VORTAC and the Pulaski, VA, VORTAC, is shortened to the ANDYS, SC, fix (near Winnsboro, SC) at the south end, and the OREAD, NC, WP (10 miles north of Hickory, NC) at the north end. In addition, the track is shifted slightly to the west of its current position but still transiting through the west side of the CLT Class B airspace area. By routing T–203 via the ROUTH, NC, WP (near Grover, SC), transiting aircraft are segregated from CLT departure airspace. Waypoints along the route provide connectivity to T–202, T–206 and T–214.

T–206: T–206 is a new route extending between the ENADE, NC, WP (near Cliffside, NC) and the ZADEL, NC, WP (near Asheboro Regional Airport [HBI], NC). The route is used to transition aircraft through the north side of the CLT Class B airspace area when CLT is landing and departing to the north. Waypoints along the route provide connectivity to T–201, T–202, T–203 and T–214. Additionally, the alignment of T–206 through the GOTHS, NC, WP (northwest of the existing MOPED, NC, fix) deconflicts transiting traffic from CLT departures.

T–214: T–214 is a new route extending between the OREAD WP and the ORPEE, NC, WP (north of Troy, NC), allowing aircraft to transition north of the CLT Class B airspace when CLT is landing and departing to the north. T–214 provides a predictable route to points northwest and west of Charlotte that are deconflicted from the CLT arrival flow.

The above routes are segregated from the heavily used arrival and departure corridors serving the Charlotte area, enhancing the efficiency of the National Airspace System in the Charlotte, NC, area.

Low altitude RNAV routes are published in paragraph 6011 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 RNAV routes listed in this document will be published subsequently in the Order.

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

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

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

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

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

T–200 FOOTHILLS, GA to FLORENCE, SC [Removed]

T–201 MEVAE, SC to BORTZ, NC [Amended]

MEVAE, SC	WP	(lat. 34°25′05″ N., long. 80°22′28″ W.)
TRUEX, SC	WP	(lat. 34°35′55″ N., long. 80°21′18″ W.)
FEGNO, NC	WP	(lat. 35°14′49″ N., long. 80°16′39″ W.)
NUROE, NC	WP	(lat. 35°34′37″ N., long. 80°31′15″ W.)
BORTZ, NC	WP	(lat. 35°52′56″ N., long. 80°44′56″ W.)

T–202 GURSH, SC to ZADEL, NC [Amended]

GURSH, SC.	WP	(lat. 34°42′05″ N., long. 81°30′32″ W.)
AWRYT, SC	WP	(lat. 34°42′00″ N., long. 81°14′52″ W.)
RICHE, SC	FIX	(lat. 34°41′54″ N., long. 80°59′23″ W.)
HUSTN, NC	FIX	(lat. 34°53′20″ N., long. 80°34′20″ W.)
FEGNO, NC	WP	(lat. 35°14′49″ N., long. 80°16′39″ W.)
GANTS, NC	FIX	(lat. 35°27′11″ N., long. 80°06′16″ W.)
ZADEL, NC.	WP	(lat. 35°33′47″ N., long. 80°01′47″ W.)

T–203 ANDYS, SC to OREAD, NC [Amended]

ANDYS, SC	FIX	(lat. 34°22′15″ N., long. 81°08′38″ W.)
AWRYT, SC	WP	(lat. 34°42′00″ N., long. 81°14′52″ W.)
ROUTH, NC	WP	(lat. 35°10′38″ N., long. 81°23′59″ W.)
FADOS, NC	WP	(lat. 35°28′22″ N., long. 81°20′49″ W.)
OREAD, NC	WP	(lat. 35°52′03″ N., long. 81°16′32″ W.)

T–206 ENADE, NC to ZADEL, NC [New]

ENADE, NC	WP	(lat. 35°12′08″ N., long. 81°44′41″ W.)
FADOS, NC	WP	(lat. 35°28′22″ N., long. 81°20′49″ W.)
GOTHS, NC	WP	(lat. 35°35′17″ N., long. 80°58′25″ W.)
NUROE, NC	WP	(lat. 35°34′37″ N., long. 80°31′15″ W.)
ZADEL, NC	WP	(lat. 35°33′47″ N., long. 80°01′47″ W.)

T–214 OREAD, NC to ORPEE, NC [New]

OREAD, NC	WP	(lat. 35°52′03″ N., long. 81°16′32″ W.)
BORTZ, NC	WP	(lat. 35°52′56″ N., long. 80°44′56″ W.)
THMSN, NC	WP	(lat. 35°53′21″ N., long. 80°28′57″ W.)
ZADEL, NC	WP	(lat. 35°33′47″ N., long. 80°01′47″ W.)
ORPEE, NC	WP	(lat. 35°27′12″ N., long. 79°52′56″ W.)

Issued in Washington, DC, on March 11, 2014.

Gary A. Norek,

Manager, Airspace Policy and Regulations Group.

[FR Doc. 2014–05894 Filed 3–20–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. FAA–2011–0246; Amendment No. 91–321A; SFAR No. 112]

RIN 2120–AJ93

Prohibition Against Certain Flights Within the Tripoli Flight Information Region (FIR); Extension of Expiration Date

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; extension of expiration date.

SUMMARY: This action extends the prohibition of flight operations within the Tripoli Flight Information Region (FIR) by all U.S. air carriers; U.S. commercial operators; persons exercising the privileges of an airman certificate issued by the FAA, except when such persons are operating a U.S.-registered aircraft for a foreign air carrier; and operators of U.S.-registered civil aircraft, except operators of such aircraft that are foreign air carriers. The extension of the expiration date is necessary to prevent a potential hazard to persons and aircraft engaged in such flight operations while the FAA evaluates whether any amendments to the regulation would be appropriate, given current conditions in Libya.

DATES: In this action, amendment 2 to § 91.1603 is effective March 21, 2014. Amendment 3 to § 91.1603 is effective March 20, 2015.

SFAR 112 (14 CFR 91.1603), published at 76 FR 16236 (March 23, 2011) and scheduled to expire on March 21, 2014, will remain in effect. The expiration date is extended until March 20, 2015.

ADDRESSES: You may send comments identified by docket number FAA–2011–0246 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building

Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

• *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: For technical questions about this final rule, contact: William Gonzalez, Air Transportation Division, Flight Standards Service, AFS–220, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591. Telephone: 202–267–4080. For legal questions contact: Robert Frenzel, Office of the Chief Counsel, AGC–200, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–7638.

SUPPLEMENTARY INFORMATION:

Background

As a result of safety and national security concerns regarding flight operations in the Tripoli FIR (HLLL), the FAA issued section 91.1603 of title 14, Code of Federal Regulations, Special Federal Aviation Regulation 112 (SFAR No. 112), in March 2011. SFAR No. 112 prohibits all U.S. air carriers; U.S. commercial operators; persons exercising the privileges of an airman certificate issued by the FAA, except when such persons are operating a U.S.-registered aircraft for a foreign air carrier; and operators of U.S.-registered civil aircraft, except operators of such aircraft that are foreign air carriers, from conducting flight operations in the Tripoli FIR, except as provided in paragraphs (c) and (d) of that SFAR. When SFAR No. 112 was issued, an armed conflict was ongoing in Libya and presented a potential hazard to civil aviation. The FAA was concerned that runways at Libya's international airports, including the main international airports serving Benghazi (HLLB) and Tripoli (HLLT), might be damaged or degraded. There was also concern that air navigation services in the Tripoli FIR might be unavailable or degraded. In addition, the proliferation of air defense weapons, including Man-Portable Air-Defense Systems (MANPADS), and the presence of military operations, including Libyan aerial bombardments and unplanned military flights entering and departing the Tripoli FIR, posed a potential hazard to U.S. operators, U.S.-registered aircraft, and FAA-certificated airmen that might operate within the Tripoli FIR. Additionally, the UN Security Council adopted Resolution 1973 on March 18, 2011, which mandated a ban on all flights in the airspace of Libya, with certain exceptions.

Although the Gadhafi regime has been overthrown and the UN-mandated ban on flights in Libyan airspace has been lifted, significant security concerns remain for Libya and for the safety of U.S. civil aviation operations in that country. On December 12, 2013, the Department of State issued a Travel Warning strongly advising against all non-essential travel to Libya. The security situation in country remains unstable and various groups have called for attacks against U.S. citizens and U.S. interests in Libya. As a consequence of the unpredictable security environment, a potential hazard to U.S.-registered aircraft, U.S. operators, and FAA-certified airmen still exists. Many military-grade weapons remain in the hands of private individuals and groups, among them anti-aircraft weapons that may be used against civil aviation, to include MANPADS. The Travel Warning also warns that closures or threats of closures of the international airports occur regularly for maintenance, labor, or security-related reasons. For these reasons, the FAA finds it necessary to extend the expiration date of SFAR No. 112 for an additional one year.

Because the circumstances described herein warrant immediate action by the FAA, I find that notice and public comment under 5 U.S.C. 553(b)(3)(B) are impracticable and contrary to the public interest. Further, I find that good cause exists under 5 U.S.C. 553(d) for making this rule effective immediately upon issuance. I also find that this action is fully consistent with the obligations under 49 U.S.C. 40105 to ensure that I exercise my duties consistently with the obligations of the United States under international agreements.

If appropriate, the FAA may amend, supersede or rescind SFAR No. 112 prior to its new expiration date. Whether further extension of this SFAR will be necessary will depend upon conditions in Libya in March 2015, which the FAA is unable to predict at this time.

List of Subjects in 14 CFR Part 91

Air traffic control, Aircraft, Airmen, Airports, Aviation safety, Freight, Libya.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends chapter I of title 14, Code of Federal Regulations as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

■ 1. The authority citation for part 91 is revised to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 1155, 40103, 40113, 40120, 44101, 44111, 44701, 44704, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506–46507, 47122, 47508, 47528–47531, 47534, articles 12 and 29 of the Convention on International Civil Aviation (61 Stat. 1180), (126 Stat. 11).

■ 2. Effective March 21, 2014, amend § 91.1603 by revising paragraph (e) to read as follows:

§ 91.1603 Special Federal Aviation Regulation No. 112—Prohibition Against Certain Flights Within the Tripoli (HLLL) Flight Information Region (FIR).

* * * * *

(e) *Expiration.* This Special Federal Aviation Regulation will expire March 20, 2015. The FAA may amend, rescind, or extend this Special Federal Aviation Regulation as necessary.

§ 91.1603 [Amended]

■ 3. Effective March 20, 2015, amend § 91.1603 by removing paragraph (e)

Issued under authority provided by 49 U.S.C. 106(f), 44701(a), and 44703 in Washington, DC, on March 14, 2014.

Michael P. Huerta,

Administrator.

[FR Doc. 2014–06199 Filed 3–20–14; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL TRADE COMMISSION

16 CFR Part 4

Freedom of Information Act; Miscellaneous Rules

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission is updating its regulations regarding fees for the provision of

services in disseminating information and records to the public. The updates reflect changes in, and additions to, the types of services that the Federal Trade Commission provides, and account for changes in the costs of providing such services.

DATES: These amendments are effective March 21, 2014.

FOR FURTHER INFORMATION CONTACT: G. Richard Gold, Attorney, (202) 326–3355, Office of the General Counsel, Federal Trade Commission, 600 Pennsylvania Avenue NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION: In a document previously published in the **Federal Register**, 78 FR 13570 (Feb. 28, 2013), the Federal Trade Commission (FTC or Commission), as required by the Freedom of Information Act (FOIA), sought comments on proposed revisions to its fee regulation. *See* 5 U.S.C. 552(a)(4)(A)(i). The FTC proposed to change its fee schedule to implement the 2007 FOIA Amendments as appropriate [1] and to revise the agency's fee schedule to account for new and discontinued services and the current costs of providing services. The Commission stated that the proposed changes would also be useful in providing additional notice to the public and to the FTC's professional and administrative staff about the procedures governing how the agency responds to FOIA requests. The Commission is adopting the proposed rules with some further revisions in response to public comments.

A. Public Comments

The FTC received six comments in response to the proposed rulemaking changes; one each from Troy Abraham, William A. Cross, Ann Fennell, the Electronic Privacy Information Center (EPIC), Michael Ravnitzky, and Neal Seaman.[2]

The comments from EPIC and Mr. Ravnitzy generally supported the proposed rule amendments, with certain recommended changes, as discussed below. One comment did not address the proposed amendments at all, while the remaining comments took issue with FOIA fees generally, suggesting that they be kept at current levels, lowered, waived, or eliminated.[3]

As set out in the Notice of Proposed Rulemaking, the rule changes are consistent with statutory and Office of Management and Budget (OMB) mandates. The FOIA provides for the charging of fees ''applicable to the processing of requests,'' [4] and sets limitations and restrictions on the assessment of certain fees.[5] A separate provision provides for the waiver or reduction of fees if certain standards are satisfied.[6] The Freedom of Information Reform Act of 1986 (FOIA Reform Act) directed the OMB to establish guidelines containing a uniform schedule of fees for individual agencies to follow when promulgating their own FOIA fee regulations. 5 U.S.C. 552(a)(4)(A)(i). On March 27, 1987, the OMB issued its Uniform FOIA Fee Schedule and Guidelines (OMB Fee Guidelines) but also concluded that creation of a government-wide fee schedule was precluded by language of the FOIA Reform Act that required ''each agency's fees to be based upon its direct reasonable operating costs of providing FOIA services.'' *See* 52 FR at 10015. The FOIA Reform Act mandated that agencies conform their fee schedules to these guidelines. The guidelines specifically direct that ''[a]gencies should charge fees that recoup the full allowable direct costs they incur . . . and shall use the most efficient and least costly methods to comply with requests for documents made under the FOIA.'' *Id.* at 10018.

EPIC Comment

EPIC states that it largely supports the Commission's proposals because the rule changes benefit FOIA requesters. For example, EPIC concurs with the Commission proposal to increase the threshold for small-charge fee waivers ''from those that do not exceed $14 to those under $25,'' and with the proposed change that complies with the 2007 FOIA amendment provision precluding agencies from assessing search fees for untimely responses.

Additionally, EPIC specifically urges the FTC to: (1) Revise its definition of a news media representative; (2) clarify which documents are public information and ensure that hyperlinks to those records work properly; (3) disclose private sector contract rates for FOIA processing; (4) refrain from prematurely closing FOIA requests; and (5) adopt alternative dispute resolution or arbitration to resolve delinquent FOIA fees.

First, EPIC claims that the Commission's proposed definition of ''*representative of the news media*'' [7]—specifically the phrases ''electronic dissemination of newspapers through telecommunications services'' and the definition of a ''freelance'' journalist—are dated. EPIC recommends that the FTC revise this provision to read as follows:

> The term ''representative of the news media'' refers to any person actively gathering information to publish or broadcast news to the public. The term ''news'' means information that is about current events or that would be of current interest to the public. Examples of news media entities include print, broadcast and webcast news services available for purchase or subscription by the general public, or available to the general public by means of an online search.

The Commission declines to accept this proposal, and has determined to retain and adopt as final its proposed definition for a *representative of the news media,* which more closely conforms to the statutory definition set forth in the 2007 FOIA Amendments.[8]

Second, EPIC asks that the Commission clarify the proposed revision to Rule 4.8(b)(5),[9] claiming that

[1] The FOIA was amended in late 2007 by the Openness Promotes Effectiveness in our National Government Act of 2007, Public Law 110–175, 121 Stat. 2524.

[2] *See http://ftc.gov/os/comments/FOIAfeeschedule/index.shtm* for links to each comment.

[3] Mr. Abraham stated that, while he supports ''this bill'' (presumably the FOIA) because ''people have the right to have full access to information,'' the FTC should lower or waive FOIA fees, since ''hidden information in the government should be provided free of charge.'' Mr. Cross opposed a fee increase, stating that it ''amounts to another tax.'' He added his view that public identity theft would increase if fees are increased. Ms. Fennell stated that ''fee increases should not be allowed unless they are balanced by all of the proposed pro-public changes.'' Mr. Seaman's comment offers his view of the overall effectiveness of the FTC without addressing the proposed rule amendments.

[4] 5 U.S.C. 552(a)(4)(A)(i).

[5] 5 U.S.C. 552(a)(4)(A)(ii), (iv)–(vi), (viii).

[6] *Id.* § 552(a)(4)(A)(iii).

[7] For Rule 4.8(b)(2)(iii), the Commission proposed this revised definition: ''A *representative of the news media* is any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to the public. The term 'news' means information that is about current events or that would be of current interest to the public. Examples of news media entities include television or radio stations broadcasting to the public at large and publishers of periodicals (but only in those instances where they can qualify as disseminators of news) who make their products available for purchase by or subscription by the general public or free distribution to the general public. These examples are not intended to be all-inclusive. As traditional methods of news delivery evolve (e.g., electronic dissemination of newspapers through telecommunications services), such alternative media shall be considered to be news-media entities. A freelance journalist shall be regarded as working for a news-media entity if the journalist can demonstrate a solid basis for expecting publication through that entity, whether or not the journalist is actually employed by the entity. A publication contract would provide a solid basis for such an expectation, but the past publication record of a requester may also be considered in making such a determination.''

[8] *Cf.* 5 U.S.C. 552(a)(4)(A)(ii).

[9] Proposed Rule 4.8(b)(5) would read as follows: ''*Materials available without charge.* These provisions do not apply to recent Commission decisions and other public materials that may be

Continued

''in the digital reading room context, making public information available 'while supplies last' is inapposite.'' EPIC recommends that the Commission revise the rule language to read as follows:

(5) *Materials available without charge.* These provisions do not apply to public records, including but not limited to Commission decisions, orders, and other public materials that may be made available to all requesters without charge.

The Commission agrees and is incorporating EPIC's recommended language for the final amended version of Rule 4.8(b)(5).

Third, EPIC asks that the Commission disclose private sector contract rates for FOIA processing. The Commission agrees and intends to make available on the Public Record the appropriate sections of each of the two contracts to the extent permitted by, and in accordance with any notice required under, sections 6(f) and 21 of the FTC Act, or other applicable law. As discussed in the Notice of Proposed Rulemaking, the agency maintains microfiche storage and management contracts with Iron Mountain Archival Services (Iron Mountain) and the National Archive and Records Administration's Washington National Records Center (WNRC).[10] The contract with Iron Mountain was awarded after full and open competitive bidding. Since WNRC is part of the National Archives and Records Administration (NARA), the FTC's contract with WNRC is technically an interagency agreement. The OMB Fee Guidelines encourage agencies ''to contract with private sector services to locate, reproduce and disseminate records in response to FOIA Requests when that is the most efficient and least costly method. When doing so . . . agencies should ensure that the ultimate cost to the requester is no greater than it would be if the agency itself had performed these tasks.'' *See* 52 FR at 10018. The Commission has determined that the fees incurred by the requesters are no greater for the services that Iron Mountain and WNRC perform than they would be if the Commission staff itself performed these tasks.

Fourth, EPIC also asks that the Commission revise its proposed procedures for closing FOIA requests where the requester has not agreed that it will pay the fee after the request has been processed. The Commission proposed that—

> If the agreement required by this section is absent, and if the estimated fees exceed $25.00, the requester will be advised of the estimated fees and the request will not be processed until the requester agrees to pay such fees. If the requester does not respond to the notification that the estimated fees exceed $25.00 within 10 calendar days from the date of the notification, the request will be closed.[11]

EPIC states that Commission should grant requesters additional time to assess their financial ability to pay fees associated with processing their FOIA requests. The Commission agrees that extra time would be beneficial to FOIA requesters and is extending the timeframe to 20 calendar days. The Department of Justice's Office of Information Policy, which oversees compliance by federal government agencies with FOIA, concurs with this time frame.

Finally, EPIC asks that when resolving delinquent FOIA fees the Commission first pursue alternative dispute resolution and arbitration before employing other legally authorized means such as disclosure to consumer reporting agencies and use of collection agencies.[12] EPIC describes the FTC as the ''nation's consumer protection agency,'' charged with enforcing the Fair Debt Collection Practices Act (FDCPA) and notes that in this role, the FTC sometimes observes abusive debt collection practices. The FTC agrees that there are situations where alternative dispute resolution methods are appropriate and has revised the language to clarify the Commission may use these methods when appropriate.

Michael Ravnitzky's Comment

Mr. Ravnitzky stated that some of the Commission's recommended changes to the fee regulation seem reasonable but he sought clarification regarding a few proposals. For example, he considered the proposal to define the term ''duplication'' in proposed Rule 4.8(a)(2), which includes the process of converting paper to electronic format, as reasonable but requested that the rule clarify that duplication costs for converting paper to electronic format should not apply when the Commission already maintains the record in electronic format. Mr. Ravnitzky adds that, when proposed Rule 4.8(a)(2) is read in conjunction with proposed Rule 4.8(b)(6), the text does not make clear that electronic scanning applies the quarterly hour rate of the operator but not the per page duplication fee. We understand Mr. Ravnitzky's concern. The definition for ''duplication'' in proposed Rule 4.8(a)(2) states as follows:

> The term *duplication* refers to the process of making a copy of a document for the purpose of releasing that document in response to a request for Commission records. Such copies can take the form of paper copy, microform, audio-visual materials, or machine readable documentation such as magnetic tape or computer disc. For copies prepared by computer and then saved to a computer disc, the Commission charges the direct costs, including operator time, of production of the disc or printout if applicable. Where paper documents must be scanned in order to comply with a requester's preference to receive the records in an electronic format, the requester shall pay the direct costs associated with scanning those materials.

Therefore, if the requester seeks a response in electronic format and a paper record must be converted to comply with that request, it is clear that the agency can charge both operator time for the conversion and the output format (if it is computer disc, the fee for the disc). If the requester seeks responsive information in electronic format which already exists in electronic format, the Commission can charge for the operator time to copy/convert from one electronic format to the specific electronic format desired by the requester (for example, the time for copying/converting information directly from the computer to a computer disc and the fee for the computer disc). Thus, although the Commission agrees that operator time for converting paper to electronic format should not be charged when the information already exists in electronic format, there may be duplication charges associated with converting from one electronic format to another electronic format that serves as the output given to the requester. In the final rule, the Commission clarifies that duplication costs include direct costs associated with copies saved to computer disc and other output formats. The final rule also adds an additional line to Rule 4.8(b)(6)'s schedule of direct costs to clarify allowable duplication costs for a non-paper format of reproduction. If the output format is paper, then the Commission will continue to charge per page as allowable per the requester's fee category.

Regarding the introductory table of fee categories set out in proposed Rule 4.8(b), Mr. Ravnitzky claims that the proposed fee category of ''Other (General Public)'' is inaccurate and that the FOIA expressly sets out ''all other

made available to all requesters without charge while supplies last.''

[10] Iron Mountain Contract # FTC–10–H0233 and Washington National Records Center (WNRC) Contract # FTC–12–I–0009.

[11] *See* Proposed Rule 4.8(d)(3).

[12] *See* proposed Rule 4.8(k) in the Notice of Proposed Rulemaking.

requesters'' for this default category. The Commission agrees and has adjusted this category to ''All other requesters (including members of the general public).''

Regarding proposed Rule 4.8(b)(7) on allowable fee charges for untimely responses and exceptions for unusual or exceptional circumstances, Mr. Ravnitzky argues the provision for exceptions is ambiguous and not clearly defined. The revised rule language incorporates by reference the FOIA statutory standard and factors provided in the legislative history. *See* 5 U.S.C. 552(a)(6), *see also* H.R. Rep. No. 104–795, at 24–25, 1996 U.S.C.C.A.N. 3448, 3468 (1996) (specifying factors that may be considered in determining whether ''exceptional circumstances'' exist). The Commission is therefore adopting as final proposed Rule 4.8(b)(7).

For proposed Rule 4.8(c) on information needed to make fee category determinations, Mr. Ravnitzky claims that the description lacks a presumption of the requester's good faith statement in a request. The Commission's determination of the appropriate category for an individual requester depends upon the intended use of the information sought, and also, for some categories, on the identity of the requester.[13] The OMB FOIA Fee Guidelines also specify that where ''use is not clear from the request . . . agencies should seek additional clarification before assigning the request to a specific category.'' [14] The FTC solicits the amount of information sufficient to ensure that requesters meet the statutory standards. The Commission is adopting as final proposed Rule 4.8(c) which includes an additional clarifying instruction that asks requesters whether the request is for commercial or noncommercial purposes.

Finally, for proposed Rule 4.8(e)(2) setting out fee waiver standards, Mr. Ravnitzky claims the provision is cumbersome and should incorporate a presumption of good faith. The statutory fee waiver standard contains two basic requirements: the public interest requirement (corresponding to/incorporated by fee waiver factors (i)(A)–(D) in Rule 4.8(e)(2)); and the requirement that the requester's commercial interest in the disclosure, if any, must be less than the public interest in it (corresponding to/incorporated by fee waiver factors (ii)(A)–(B) in the Rule).[15] Both of these requirements must be satisfied by the requester before properly assessable fees are waived or reduced under the statutory standard. Further, requesters should address both of the statutory requirements in sufficient detail for the agency to make an informed decision as to whether it can appropriately waive or reduce the fees in question.[16] Thus, the Commission is simply following the statutory standard on fee waiver determinations to ensure that the public gets the benefit of the information that is released to the requester without charge. The Commission is making one clarification to Rule 4.8(e)(1) to ask for sufficient detail in fee waiver requests and is otherwise adopting the remainder of proposed Rule 4.8(e)(2) as final.

Certain proposed rule changes did not garner any comment. Accordingly, the Commission adopts as final the proposed rule changes to Rule 4.8(a)(3)–(4), 4.8(b)(2)(i)–(ii), 4.8(b)(4), and 4.8(f). Rule 4.8(b)(3) is adopted as final with an additional formatting change to be consistent with other sections.

Regulatory Flexibility Act and Paperwork Reduction Act

The Commission certifies that the Rule amendments set forth in this document do not require initial or final regulatory analyses under the Regulatory Flexibility Act. *See* 5 U.S.C. 603(a) and 604(a). Those requirements do not apply to agency rules of practice and procedure that are legally exempt from the notice-and-comment requirements of the Administrative Procedure Act. *See* 5 U.S.C. 553(b)(3)(A). In any event, the Commission does not believe the amendments will have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act. *See* 5 U.S.C. 605(b). The Commission anticipates that the economic impact of the amendments will be minimal, if any, and most requests for access to FTC records are filed by individuals who are not ''small entities'' within the meaning of that Act. *Id.* at 601(6). The Rule amendments also do not contain information collection requirements within the meaning of the Paperwork Reduction Act, 44 U.S.C. 3501–3520.

List of Subjects in 16 CFR Part 4

Administrative practice and procedure, Freedom of Information Act.

For the reasons set forth in the preamble, the Federal Trade Commission is amending Title 16, Chapter I, Subchapter A of the Code of Federal Regulations as follows:

PART 4—MISCELLANEOUS RULES

■ 1. The authority citation for Part 4 continues to read as follows:

Authority: 15 U.S.C. 46, unless otherwise noted.

■ 2. Amend § 4.8 by revising paragraphs (a)(2), (a)(3) and (a)(4), the introductory text of paragraph (b), (b)(2), (b)(3), (b)(4), (b)(5), and (b)(6), by adding a new (b)(7), and by revising paragraphs (c), (d), (e), (f) and (k), to read as follows:

§ 4.8. Costs for obtaining Commission records.

(a) * * *

(2) The term *duplication* refers to the process of making a copy of a document for the purpose of releasing that document in response to a request for Commission records. Such copies can take the form of paper copy, microform, audio-visual materials, or machine readable documentation such as magnetic tape or computer disc. For copies prepared by computer and then saved to a computer disc, the Commission charges the direct costs, including operator time, of production of the disc or other output format. Where paper documents must be scanned in order to comply with a requester's preference to receive the records in an electronic format, the requester shall pay the direct costs associated with scanning those materials. As set out in § 4.8(b), certain requesters do not pay for direct costs associated with duplicating the first 100 pages.

(3) The term *review* refers to the examination of documents located in response to a request to determine whether any portion of such documents may be withheld, and the redaction or other processing of documents for disclosure. Review costs are recoverable from commercial use requesters even if a record ultimately is not disclosed. Review time includes time spent considering formal objections to disclosure made by a business submitter but does not include time spent resolving general legal or policy issues regarding the release of the document.

(4) The term *direct costs* means expenditures that the Commission

[13] *See* 5 U.S.C. 552(a)(4)(A)(ii).

[14] *See* OMB FOIA Fee Guidelines, 52 Fed. Reg. at 10018; *see also McClellan* v. *Carlucci,* 835 F.2d 1282, 1287 (9th Cir. 1987) (''Legislative history and agency regulations imply that an agency may seek additional information when establishing a requester's category for fee assessment.'').

[15] *See* 5 U.S.C. 552(a)(4)(A)(iii).

[16] *See, e.g., Judicial Watch, Inc.* v. *Rossotti,* 326 F.3d 1309, 1312 (D.C. Cir. 2003) (reiterating that requests for fee waivers ''must be made with reasonable specificity . . . and based on more than conclusory allegations'') (quotation marks and internal citations omitted); *McClellan,* 835 F.2d at 1285 (stating that conclusory statements will not support fee waiver request).

actually incurs in processing requests. Direct costs include the salary of the employee performing work (the basic rate of pay for the employee plus 16 percent of that rate to cover benefits) and the cost of operating duplicating machinery. Not included in direct costs are overhead expenses such as costs of document review facilities or the costs of heating or lighting such a facility or other facilities in which records are stored. The direct costs of specific services are set forth in § 4.8(b)(6).

(b) *Fees.* User fees pursuant to 31 U.S.C. 9701 and 5 U.S.C. 552(a) shall be charged according to this paragraph, unless the requester establishes the applicability of a public interest fee waiver pursuant to § 4.8(e). The chart summarizes the types of charges that apply to requester categories set out in paragraphs (b)(1)–(b)(3).

Requester categories	Fee charged for all search time	Fee charged for all review time	Duplication charges
Commercial	Fee	Fee	Fee charged for all duplication.
Educational, Non-commercial Scientific Institution, or News Media.	No charge	No charge	No charge for first 100 pages.
All other requesters (including members of the general public).	Fee after two hours	No charge	No charge for first 100 pages.

* * * * *

(2) *Educational requesters, non-commercial scientific institution requesters, and representative of the news media.* Requesters in these categories will be charged for the direct costs to duplicate documents, excluding charges for the first 100 pages.

(i) An *educational institution* is a preschool, a public or private elementary or secondary school, an institution of graduate higher education, an institution of undergraduate higher education, an institution of professional education, and an institution of vocational education, which operates a program or programs of scholarly research. To be in this category, a requester must show that the request is authorized by and is made under the auspices of a qualifying institution and that the records are sought to further the scholarly research of the institution and are not sought for a commercial or an individual use or goal.

(ii) A *non-commercial scientific institution* is an institution that is not operated on a *commercial* basis as that term is referenced in paragraph (b)(1) of this section, and that is operated solely to conduct scientific research the results of which are not intended to promote any particular product or industry.

(iii) A *representative of the news media* is any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to the public. The term ''news'' means information that is about current events or that would be of current interest to the public. Examples of news media entities include television or radio stations broadcasting to the public at large and publishers of periodicals (but only in those instances where they can qualify as disseminators of news) who make their products available for purchase by or subscription by the general public or free distribution to the general public. These examples are not intended to be all-inclusive. As traditional methods of news delivery evolve (e.g., electronic dissemination of newspapers through telecommunications services), such alternative media shall be considered to be news-media entities. A freelance journalist shall be regarded as working for a news-media entity if the journalist can demonstrate a solid basis for expecting publication through that entity, whether or not the journalist is actually employed by the entity. A publication contract would provide a solid basis for such an expectation, but the past publication record of a requester may also be considered in making such a determination.

(3) *Other requesters.* Other requesters not described in paragraphs (b)(1) or (2) will be charged for the direct costs to search for and duplicate documents, except that the first 100 pages of duplication and the first two hours of search time shall be furnished without charge.

(4) *Waiver of small charges.* Notwithstanding the provisions of paragraphs (b)(1), (2), and (3) of this section, charges will be waived if the total chargeable fees for a request are under $25.00.

(5) *Materials available without charge.* These provisions do not apply to public records, including but not limited to Commission decisions, orders, and other public materials that may be made available to all requesters without charge.

(6)(i) *Schedule of direct costs.* The following uniform schedule of fees applies to records held by all constituent units of the Commission:

Duplication:	
Paper to paper copy (up to 8.5″ × 14″)..	$0.14 per page.
Converting paper into electronic format (scanning).	Quarter hour rate of operator (Clerical, Other Professional, Attorney/Economist).
Other reproduction (e.g., computer disk or printout, microfilm, microfiche, or microform).	Actual direct cost, including operator time.
Electronic Services:	
Preparing electronic records and media.	$10.00 per qtr. hour.
Compact disc (CD).	$3.00 per disc.
DVD	$3.00 per disc.
Videotape cassette.	$2.00 per cassette.
Microfilm Services:	
Conversion of existing fiche/film to paper.	$0.14 per page.
Other Fees:	
Certification	$25.00 each.
Express Mail	U.S. Postal Service Market Rates.
Records maintained at Iron Mountain or Washington National Records Center facilities (records retrieval, re-filing, et cetera).	Contract Rates.
Other Services as they arise.	Market Rates.

(ii) *Search, review and duplication fees.* Agency staff is divided into three categories: Clerical, attorney/economist, and other professional. Fees for search and review purposes, as well the costs of operating duplication machinery such as converting paper to electronic format (scanning), are assessed on a quarter-hourly basis, and are determined by identifying the category into which the staff member(s) conducting the search or review or

duplication procedure belong(s), determining the average quarter-hourly wages of all staff members within that category, and adding 16 percent to reflect the cost of additional benefits accorded to government employees. The exact fees are calculated and announced periodically and are available from the Consumer Response Center, Federal Trade Commission, 600 Pennsylvania Avenue NW., Washington, DC 20580; (202) 326–2222. (7) *Untimely responses.* Search fees will not be assessed for responses that fail to comply with the time limits in which to respond to a Freedom of Information Act request, provided at 5 U.S.C. 552(a)(4)(A)(viii) and § 4.11(a)(1)(ii), if there are no unusual or exceptional circumstances, as those terms are defined by 5 U.S.C. 552(a)(6) and § 4.11(a)(1)(ii). Duplication fees will not be assessed for an untimely response, where there are no unusual or exceptional circumstances, made to a requester qualifying for one of the fee categories set forth in § 4.8(b)(2).

(c) *Information to determine fees.* Each request for records shall set forth whether the request is made for either commercial or non-commercial purposes or whether the requester is an educational institution, a noncommercial scientific institution, or a representative of the news media. The deciding official (as designated by the General Counsel) will use this information, any additional information provided by the requester, and any other relevant information to determine the appropriate fee category in which to place the requester. *See* § 4.11(a)(3)(i)(A)(3) for procedures on appealing fee category and fee waiver determinations.

(d) *Agreement to pay fees.* (1) Each request that does not contain an application for a fee waiver as set forth in § 4.8(e) shall specifically indicate that the requester will either:

(i) Pay, in accordance with § 4.8(b), whatever fees may be charged for processing the request; or

(ii) Pay such fees up to a specified amount, whereby the processing of the request would cease once the specified amount has been reached.

(2) Each request that contains an application for a fee waiver shall specifically indicate whether the requester, in the case that the fee waiver is not granted, will:

(i) Pay, in accordance with § 4.8(b), whatever fees may be charged for processing the request;

(ii) Pay fees up to a specified amount, whereby the processing of the request would cease once the specified amount has been reached; or

(iii) Not pay fees, whereby the processing of the request will cease at the point fees are to be incurred in accordance with § 4.8(b).

(3) If the agreement required by this section is absent, and if the estimated fees exceed $25.00, the requester will be advised of the estimated fees and the request will not be processed until the requester agrees to pay such fees. If the requester does not respond to the notification that the estimated fees exceed $25.00 within 20 calendar days from the date of the notification, the request will be closed.

(e) *Public interest fee waivers*—(1) *Procedures.* A requester may apply for a waiver of fees. The requester shall explain in sufficient detail why a waiver is appropriate under the standards set forth in this paragraph. The application shall also include a statement, as provided by paragraph (d) of this section, of whether the requester agrees to pay costs if the waiver is denied. The deciding official (as designated by the General Counsel) will rule on applications for fee waivers. To appeal the deciding official's determination of the fee waiver, a requester must follow the procedures set forth in § 4.11(a)(3).

(2) *Standards.* (i) The first requirement for a fee waiver is that disclosure will likely contribute significantly to public understanding of the operations or activities of the government. This requirement shall be met if the requester establishes that:

(A) The subject matter of the requested information concerns the operations or activities of the Federal government;

(B) The disclosure is likely to contribute to an understanding of these operations or activities;

(C) The understanding to which disclosure is likely to contribute is the understanding of the public at large, as opposed to the understanding of the individual requester or a narrow segment of interested persons; (e.g., by providing specific information about the requester's expertise in the subject area of the request and about the ability and intention to disseminate the information to the public); and

(D) The likely contribution to public understanding will be significant.

(ii) The second requirement for a fee waiver is that the request not be primarily in the commercial interest of the requester. This requirement shall be met if the requester shows either:

(A) That the requester does not have a commercial interest that would be furthered by the requested disclosure; or

(B) If the requester does have a commercial interest that would be furthered by the requested disclosure, that the public interest in disclosure outweighs the identified commercial interest of the requester so that the disclosure is not primarily in the requester's commercial interest.

(f) *Searches that do not yield responsive records.* Charges may be assessed for search time even if the agency fails to locate any responsive records or if it locates only records that are determined to be exempt from disclosure.

* * * * *

(k) *Effect of the Debt Collection Act of 1982 (Pub. L. 97–365), as amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104–134).* The Commission will pursue repayment, where appropriate, by employing the provisions of the Debt Collection Act of 1982, as amended by the Debt Collection Improvement Act of 1996, the Federal Claims Collection Standards (FCSS), 31 CFR 900–904, and any other applicable authorities in collecting unpaid fees assessed under this section, including disclosure to consumer reporting agencies and use of collection agencies. The FTC also reserves the legal right to employ other lawful debt collection methods such as alternative dispute resolution and arbitration when appropriate.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2014–05955 Filed 3–20–14; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2014–0042]

Special Local Regulation; Annual Marine Events on the Colorado River, Between Davis Dam (Bullhead City, AZ) and Headgate Dam (Parker, AZ) Within the San Diego Captain of the Port Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the Blue Water Spring Classic 2014 special local regulations during this year's race on April 5, 2014 through April 6, 2014. This event occurs in the Lake Moovalya region of the navigable waters of the Colorado River in Parker, Arizona. These special local regulations are necessary to provide for the safety of

the participants, crew, spectators, sponsor vessels of the boat race, and general users of the waterway. During the enforcement period, persons and vessels are prohibited from entering into, transiting through, or anchoring within this regulated area unless authorized by the Captain of the Port, or his designated representative.

DATES: This rule is effective from 6 a.m. to 6 p.m. on April 5, 2014 through April 6, 2014.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email Petty Officer Giacomo Terrizzi, Waterways Management, U.S. Coast Guard Sector San Diego, CA; telephone (619) 278–7656, email *D11-PF-MarineEventsSanDiego@uscg.mil*.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the special local regulations in 33 CFR 100.1102 in support of Blue Water Resort & Casino Spring Classic 2014 (Item 6 on Table 1 of 33 CFR 100.1102), held on a Saturday and Sunday in April. The Coast Guard will enforce the special local regulations on the Colorado River in Parker, AZ on Saturday April 5, 2014 through Sunday April 6, 2014 from 6 a.m. to 6 p.m.

Under the provisions of 33 CFR 100.1102, persons and vessels are prohibited from entering into, transiting through, or anchoring within this regulated area unless authorized by the Captain of the Port, or his designated representative. The Coast Guard may be assisted by other Federal, State, or local law enforcement agencies in enforcing this regulation.

This notice is issued under authority of 5 U.S.C. 552 (a) and 33 CFR 100.1102. In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this enforcement period via the Local Notice to Mariners and local advertising by the event sponsor.

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

Dated: March 4, 2014.

S.M. Mahoney,

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

[FR Doc. 2014–06251 Filed 3–20–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2013–0778]

RIN 1625–AA09

Drawbridge Operation Regulation; Broad Creek, Laurel, DE

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the regulation that governs the operation of the Poplar Street Bridge, mile 8.2, and the U.S. 13A Bridge over Broad Creek, mile 8.25, both at Laurel, DE. The new rule will change the current regulation requiring a forty-eight hour advance notice and allow the bridges to remain in the closed position for the passage of vessels. There have been no requests for openings since 1975.

DATES: This rule is effective April 21, 2014.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2013–0778. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mrs. Jessica Shea, Fifth Coast Guard District Bridge Administration Division, Coast Guard; telephone 757–398–6422, email *jessica.c.shea2@uscg.mil.* If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

CFR Code of Federal Regulations
DELDOT Delaware Department of Transportation
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking
§ Section Symbol
U.S.C. United States Code

A. Regulatory History and Information

On November 8, 2013, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulation; Broad Creek, Laurel, DE in the **Federal Register** (78 FR 67084). We received 1 comment on the proposed rule. No public meeting was requested, and none was held.

B. Basis and Purpose

The bridge owner, DELDOT, requested a change in the operation regulation for the Poplar Street Bridge, mile 8.2, and U.S. 13A Bridge, mile 8.25, across Broad Creek. DELDOT provided Bridge logs dating back to 1975 for both bridges, which demonstrated to the Coast Guard that there have been no requests to open the bridges for the past 29 years. The Coast Guard will allow the above mentioned bridges to remain in the closed to navigation position in accordance with 33 CFR 117.39. In the closed to navigation position, the bridge need not open for the passage of vessels.

In the closed position, the Poplar Street Bridge, mile 8.2, has a vertical clearance of five feet above mean high water and eight feet above mean low water. In the closed position, the U.S. 13A Bridge, mile 8.25, has a vertical clearance of two feet above mean high water and a vertical clearance of five feet above mean low water. Vessels which can safely transit under the bridges in the closed to navigation position can do so at any time.

C. Discussion of Comments, Changes and the Final Rule

The comment made in response to the NPRM was in favor of the need not open status. There were no changes made to what was proposed in the NPRM and this Final Rule as a result of this comment.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

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

not reviewed it under those Orders. Based on the DELDOT bridge tender logs, no vessels will be adversely impacted by this regulation because there is no record of actual openings or requests for an opening since 1975.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rule. This rule would affect the following entities, some of which might be small entities: owners and operators of vessels intending to transit in that portion of Broad Creek that cannot transit under the Poplar Street Bridge and the U.S. 13A Bridge during mean high water. Due to the fact that there have been no requests for openings in nearly 30 years, this final rule will not have a significant economic impact on a substantial number of small entities. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this final rule. If the rule affects your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard. The Coast Guard will not retaliate against small entities that question or complain about this final rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

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

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the ''For Further Information Contact'' section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves simply promulgates the operating regulations or procedures for drawbridges. This rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction.

Under figure 2–1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 117.233(b) to read as follows:

§ 117.233 Broad Creek.

* * * * *

(b) The draws of the Poplar Street Bridge, mile 8.2, and the U.S. 13A Bridge, mile 8.25, both at Laurel, need not open for the passage of vessels.

Dated: March 6, 2014.

Steven H. Ratti,

Rear Admiral, United States Coast Guard Commander, Fifth Coast Guard District.

[FR Doc. 2014–06264 Filed 3–20–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2014–0109]

Drawbridge Operation Regulation; Sacramento River, Sacramento, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Tower Drawbridge across the Sacramento River, mile 59.0 at Sacramento, CA. The deviation is necessary to allow the community to participate in the ''Girls on the Go'' run event. This deviation allows the bridge to remain in the closed-to-navigation position during the deviation period.

DATES: This deviation is effective from 8 a.m. to 12 noon on March 30, 2014.

ADDRESSES: The docket for this deviation, [USCG–2014–0109], is available at *http://www.regulations.gov*. Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email David H. Sulouff, Chief, Bridge Section, Eleventh Coast Guard District; telephone 510–437–3516, email *David.H.Sulouff@uscg.mil*. If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: California Department of Transportation has requested a temporary change to the operation of the Tower Drawbridge, mile 59.0, over Sacramento River, at Sacramento, CA. The drawbridge navigation span provides a vertical clearance of 30 feet above Mean High Water in the closed-to-navigation position. The draw opens on signal from May 1 through October 31 from 6 a.m. to 10 p.m. and from November 1 through April 30 from 9 a.m. to 5 p.m. At all other times the draw shall open on signal if at least four hours notice is given, as required by 33 CFR 117.189(a). Navigation on the waterway is commercial and recreational.

The drawspan will be secured in the closed-to-navigation position 8 a.m. to 12 noon on March 30, 2014, to allow the community to participate in the ''Girls on the Go'' run event. This temporary deviation has been coordinated with the waterway users. No objections to the proposed temporary deviation were raised.

Vessels able to pass through the bridge in the closed position may do so at anytime. The bridge will be able to open for emergencies and there is no immediate alternate route for vessels to pass. The Coast Guard will also inform the users of the waterway through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessels can arrange their transits to minimize any impact caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: March 10, 2014.

D. H. Sulouff,

District Bridge Chief, Eleventh Coast Guard District.

[FR Doc. 2014–06266 Filed 3–20–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2014–0125]

Drawbridge Operation Regulation; Chef Menteur Pass, at Lake Catherine, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulations.

SUMMARY: The Coast Guard has issued a temporary deviation from the regulation governing the operation of the U.S. Highway 90 swing highway bridge across the Chef Menteur Pass, mile 2.8, at Lake Catherine, Orleans Parish, Louisiana. The deviation is necessary to ensure the safety of participants in the Ochsner Ironman 70.3 New Orleans event as they run across the bridge. This deviation allows the bridge to remain in the closed-to-navigation position continuously during the event.

DATES: This deviation is effective from 7 a.m. through 2 p.m. on Sunday, April 13, 2014.

ADDRESSES: The docket for this deviation, [USCG–2014–0125] is available at *http://www.regulations.gov*. Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Jim Wetherington, Bridge Administration Branch, Coast Guard, telephone (504) 671–2128, email *james.r.wetherington@uscg.mil*. If you have questions on viewing the docket, call Cheryl F. Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The Coast Guard received a request for a temporary deviation for the U.S. Highway 90 swing bridge crossing the Chef Menteur Pass, mile 2.8, at Lake Catherine, Orleans, Parish, Louisiana to remain in the closed-to-navigation position for a seven-hour period during the Ochsner Ironman 70.3, on April 13, 2014. The bridge owner also received a request to close the bridge to all traffic

during the Ironman event, which was approved. The bridge provides 10 feet vertical clearance in the closed-to-navigation position at mean high water. Currently, according to 33 CFR 117.436, the draw of the U.S. Highway 90 Bridge, mile 2.8, shall open on signal; except that, from 5:30 a.m. to 7:30 a.m. Monday through Friday, except Federal holidays, the draw need open only on the hour and on the half-hour for the passage of vessels. The draw shall open at any time for a vessel in distress. This deviation allows the draw span of the bridge to remain closed to navigation between 7 a.m. and 2 p.m. on Sunday, April 13, 2014 while the Ironman participants travel across the bridge as part of the race course. Navigation on the waterway consists mainly of commercial fishermen and sportsman fishermen. As a result of coordination between the Coast Guard and the waterway users, it has been determined that this closure will not have a significant effect on these vessels. The Coast Guard will inform users through the Local and Broadcast Notice to Mariners of the closure period. There is an alternate route available via The Rigolets Pass to vessel traffic. Vessels that can pass under the bridge in the closed-to-navigation position can do so at any time. The bridge will not be able to open for emergencies.

In accordance with 33 CFR 117.436, the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: March 7, 2014.

David M. Frank,

Bridge Administrator.

[FR Doc. 2014–06260 Filed 3–20–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2014–0124]

Drawbridge Operation Regulation; Inner Harbor Navigation Canal, New Orleans, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulations.

SUMMARY: The Coast Guard has issued a temporary deviation from the regulation governing the operation of the Senator Ted Hickey (Leon C. Simon Blvd./Seabrook) bascule bridge across the Inner Harbor Navigation Canal, mile 4.6, at New Orleans, Louisiana. The deviation is necessary to ensure the safety of participants in the Ochsner Ironman 70.3 New Orleans event as they run across the bridge. This deviation allows the bridge to remain in the closed-to-navigation position continuously during the event.

DATES: This deviation is effective from 7 a.m. through 2 p.m. on Sunday, April 13, 2014.

ADDRESSES: The docket for this deviation, [USCG–2014–0124] is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Jim Wetherington, Bridge Administration Branch, Coast Guard, telephone (504) 671–2128, email *james.r.wetherington@uscg.mil.* If you have questions on viewing the docket, call Cheryl F. Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The Coast Guard received a request for a temporary deviation for the Senator Ted Hickey (Leon C. Simon Blvd./Seabrook) crossing the Inner Harbor Navigation Canal, mile 4.6, in New Orleans, Louisiana to remain in the closed-to-navigation position for a seven-hour period during the Ochsner Ironman 70.3, on April 13, 2014. The bridge owner also received a request to close the bridge to all traffic during the Ironman event, which was approved. The bridge provides 45 feet in the closed-to-navigation position above mean sea level. Currently, according to 33 CFR 117.458(c), the draw of the Senator Ted Hickey (Leon C. Simon Blvd./Seabrook), mile 4.6, shall open on signal from 7 a.m. to 8 p.m.; except the bridge need not open from 7 a.m. to 8:30 a.m. and 5 p.m. to 6:30 p.m. Monday through Friday. From 8 p.m. to 7 a.m., the draw shall open on signal if at least two hours notice is given. This deviation allows the draw span of the bridge to remain closed to navigation between 7 a.m. and 2 p.m. on Sunday, April 13, 2014 while the Ironman participants travel across the bridge as part of the race course. Navigation on the waterway consists mainly of tugs with tows. As a result of coordination between the Coast Guard and the waterway users, it has been determined that this closure will not have a significant effect on these vessels. The Coast Guard will inform users through the Local and Broadcast Notice to Mariners of the closure period. There is an alternate route available via the Rigolets Pass to vessel traffic. Vessels that can pass under the bridge in the closed-to-navigation position can do so at any time. The bridge will not be able to open for emergencies.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: March 7, 2014.

David M. Frank,

Bridge Administrator.

[FR Doc. 2014–06265 Filed 3–20–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2014–0159]

RIN 1625–AA11

Regulated Navigation Area; Piscataqua River Channel Obstruction Near Memorial Bridge, Piscataqua River, Portsmouth, NH

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary regulated navigation area (RNA) on the Piscataqua River near the Memorial Bridge, Portsmouth, NH, due to debris obstructing the channel. This RNA establishes draft restrictions on vessels transiting the regulated area and prohibits vessels whose draft exceeds 12 feet from coming within 300 yards of the Memorial Bridge unless authorized by the First District Commander or the Captain of the Port (COTP), Sector Northern New England, or until the obstruction is cleared.

DATES: This rule is effective without actual notice from March 21, 2014 until March 31, 2014. For the purposes of enforcement, actual notice will be used from the date the rule was signed, March 7, 2014, until March 21, 2014.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2014–0159]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov*, type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call Lieutenant Junior Grade Elizabeth V. Gunn, Waterways Management Division at Coast Guard Sector Northern New England, at 207–767–0398 or email at *Elizabeth.V.Gunn@uscg.mil;* or call Lieutenant Myles Greenway, Waterways Management at Coast Guard First District at 617–223–8385 or email at *Myles.J.Greenway@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations at (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

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

A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable. Good cause exists because the Coast Guard was not notified of the obstruction until shortly after its discovery early on the morning of March 7, 2014. Thus, delaying the effectiveness of this rule to allow for a notice and comment period to run would inhibit the Coast Guard's ability to protect the boating public from the hazards associated with an unmarked underwater obstruction.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. For the reasons discussed in the preceding paragraph, delaying the effective date of this rule would be impracticable.

B. Basis and Purpose

Under the Ports and Waterways Safety Act, 33 U.S.C. 1221 et seq., the Coast Guard has the authority to establish RNAs in defined water areas that are determined to have hazardous conditions and in which vessel traffic can be regulated in the interest of safety.

The regulated navigation area is being issued to ensure the safety of vessels drawing more than 12 feet in draft which could potentially strike known debris.

C. Discussion of the Final Rule

At approximately 5:15 a.m. on March 7th, 2014, a 600′ oil tanker was outbound on the Piscataqua River when it struck pier 3 of the Memorial Bridge with its bow. The allision tore one fender panel completely off of the pier and damaged the two adjacent panels. The missing fender panel now presents a danger to vessels drawing a draft greater than 12 feet. This RNA is required to restrict the draft of vessels entering the area to protect said vessels from the safety hazards associated with this obstruction to the channel. This RNA will encompass all waters within a 300 yard radius of a position 43°04′46″ N, 70°45′10″ W, in the vicinity of the Memorial Bridge between Portsmouth, NH and Badgers Island in Kittery, ME, and will be effective on March 7, 2014, at 4:00 p.m. until March 31, 2014 at 11:59 p.m.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

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

The economic effect of this rule will not be significant for the following reasons: the RNA will be of limited duration. Vessels drawing a draft of less than 12 feet may still transit the area freely while vessels drawing a draft exceeding 12 feet may be authorized to transit the area with permission of the District Commander or the Captain of the Port, Sector Northern New England. Additionally, maritime advisories will be broadcast during the duration of the enforcement period.

2. Impact on Small Entities

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

This rule may affect the following entities, some of which may be small entities: the owners or operators of vessels drawing a draft greater than 12 feet. However, this temporary final rule will not have a significant economic impact on a substantial number of small entities for the same reasons discussed in the *Regulatory Planning and Review* section above.

3. Assistance for Small Entities

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

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

about this rule or any policy or action of the Coast Guard.

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children From Environmental Health Risks

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(g) of the Instruction because it involves the creation of an RNA. An environmental analysis checklist and a categorical exclusion determination will be available in the docket where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T01–0159 to read as follows:

§ 165.T01–0159 Regulated Navigation Area; Piscataqua River Channel Obstruction near Memorial Bridge, Piscataqua River, Portsmouth, NH.

(a) *Location.* The following area is a Regulated Navigation Area (RNA): all navigable waters from surface to bottom within a 300 yard radius of position 43°04′46″ N, 70°45′10″ W.

(b) *Regulations.* (1) The general regulations contained in 33 CFR 165.10, 165.11, and 165.13 apply within the RNA, and in addition:

(2) No vessel with a draft of greater than 12 feet may transit this area unless authorized by the First District Commander or the Captain of the Port, Sector Northern New England.

(3) Persons and vessels may request permission to enter the Regulated Navigation Area by contacting the COTP or the COTP's on-scene representative on VHF–16 or via phone at 207–767–0303.

(4) The ''designated representative'' is any Coast Guard commissioned, warrant, or petty officer who has been designated by the Captain of the Port to act on his behalf. The on-scene representative may be on a Coast Guard vessel, a Coast Guard Auxiliary vessel, or onboard a local or state agency vessel that is authorized to act in support of the Coast Guard. Additionally, the Coast Guard Auxiliary may be present to inform vessel operators of this regulation.

(5) Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light or other means, the operator of the vessel must proceed as directed.

(c) *Effective and Enforcement Period.* This rule is effective and will be enforced from March 7, 2014 until March 31, 2014.

Dated: March 7, 2014.

D. B. Abel,

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

[FR Doc. 2014–06229 Filed 3–20–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2014–0145]

RIN 1625–AA00

Safety Zone, Barnegat Inlet; Barnegat Light, NJ

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard has established a safety zone in Barnegat Inlet from March 7, 2014 to November 31, 2014 around the Barnegat Inlet north jetty repair project. The Army Corps of Engineers has contracted with Agate Construction to repair the damage to the north jetty that was caused by Hurricane Sandy in October 2012. The presence of work barges in the channel reduces the width of the navigable portion of Barnegat Inlet, making it too narrow for vessels to safely pass each other within the inlet. This regulation is necessary to provide for the safety of life on the navigable waters of Barnegat Inlet and is intended to restrict traffic movement to protect mariners from hazards associated with the north jetty repair operations.

DATES: This rule is effective without actual notice from March 21, 2014 until November 31, 2014. For purposes of enforcement, actual notice will be used from the date the rule was signed, March 7, 2014, until March 21, 2014. This rule will be enforced until November 31, 2014 unless cancelled earlier by the Captain of the Port.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2014–0145]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Veronica Smith, Chief Waterways Management Division, Sector Delaware Bay, U.S. Coast Guard; telephone (215) 271–4851, email *Veronica.L.Smith@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

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

A. Regulatory History and Information

The Coast Guard is issuing this rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because immediate action is necessary to protect the maritime public. The presence of Agate Construction's barges in the narrow inlet poses a threat to maritime traffic and a safety zone is needed to reduce congestion in the waterway. In this case, waiting for a comment period to run would be contrary to the public interest of protecting life and property. In addition, publishing an NPRM is impracticable because the U.S. Army Corps of Engineers did not provide sufficient notice to the Coast Guard to allow for a comment period prior to the commencement of the work.

Notice to the local commercial fishing community was given on February 19, 2014 in a meeting with the Coast Guard, Army Corps of Engineers, and Agate Construction. Additionally, the Coast Guard is conducting outreach to recreational boaters by providing information to local marinas and boating organizations and by outreach through the U.S. Coast Guard Auxiliary.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register** as any delay encountered in this regulation's effective date would be contrary to public interest because immediate action is needed to provide for the safety of vessels navigating in Barnegat Inlet while repairs are being conducted on the north jetty.

B. Basis and Purpose

From March 7, 2014 to November 31, 2014 Agate Construction will be working under contract for the Army Corps of Engineers to conduct repairs to the north jetty of Barnegat Inlet. Due to the close proximity of the north jetty to the navigable portion of the inlet, the presence of work vessels within the navigable channel, and the resulting reduction of the width of the navigable area to approximately 140 feet, this rule is required in order to safely facilitate operations and protect both life and property on the navigable waterways of Barnegat Inlet in respect to commercial and recreational marine activities.

C. Discussion of the Final Rule

The Coast Guard is establishing a temporary safety zone in the waters of Barnegat Inlet in Barnegat Light, NJ from March 7, 2014 to November 31, 2014, unless cancelled earlier by the Captain of the Port once all operations are completed. The safety zone will restrict more than one vessel at a time from transiting within Barnegat Inlet. Additionally, diving, swimming, fishing, and other recreational activities are prohibited within the safety zone at all times. The safety zone will encompass an area bounded on the Northwest of the inlet by a line drawn from position 39°46″02′ N, 074°06″00′ W to 39°45″52′ N, 074°06″14′ W, on the Southeast by a line drawn from position 39°45″33′ N, 074°05″24′ W, to 39°45″26′ N, 074°05″34′ W, and bounded on the Northeast and Southwest by the Barnegat Inlet jetties. During the period that the safety zone is in effect, all vessels not responsible for jetty repair will be required to pass through the inlet one at a time and will be prohibited from mooring, anchoring, or remaining in the zone, unless specifically authorized by the Captain of the Port, Delaware Bay or her designated representative. Individuals engaged in activities in the water, including but not limited to diving, swimming, and fishing, are prohibited from participating in those activities within the safety zone. Those persons authorized to transit through the safety zone shall proceed at the minimum speed necessary to maintain steerage and shall abide by all directions provided by the Captain of the Port, Delaware Bay, or her designated representative, in order to ensure that they do not endanger themselves or others within Barnegat Inlet.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. Although this regulation will restrict vessel movement within Barnegat Inlet, the effect of this rule will not be significant because: (i) the Coast Guard will make extensive notification of the safety zone to the maritime public, via maritime advisories so mariners can alter their plans accordingly; (ii) vessels will be permitted to transit through the safety zone one at a time, and (iii) this rule will only be enforced for the duration of the jetty repair project.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule would affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit through Barnegat Inlet from March 7, 2014 to November 31, 2014, unless cancelled earlier by the Captain the Port once all operations are completed. The safety zone will not have a significant impact on a substantial number of small entities for the following reason: Vessel traffic will be allowed to pass through the safety zone one vessel at a time. Sector Delaware Bay will issue maritime advisories widely accessible to users of the inlet.

3. Assistance for Small Entities

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

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

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves implementation of regulations within 33 CFR Part 165, applicable to safety zones on the navigable waterways. This zone will temporarily restrict recreational

activity and transiting vessel traffic in Barnegat Inlet at Barnegat Light, NJ, for the duration of the Army Corps of Engineers north jetty repair project. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T05–0145, to read as follows

§ 165.T05–0145 Safety Zone, Barnegat Inlet; Barnegat Light, NJ.

(a) *Location.* The following area is a safety zone: All waters of Barnegat Inlet, Barnegat Light, NJ in an area bounded on the Northwest of the inlet by a line drawn from position 39°46′02″ N, 074°06′00″ W to 39°45′52″ N, 074°06′14″ W, on the Southeast by a line drawn from position 39°45′33″ N, 074°05′24″ W, to 39°45′26″ N, 074°05′34″ W, and bounded on the Northeast and Southwest by the Barnegat Inlet jetties.

(b) *Enforcement period.* This rule will be enforced from March 7, 2014 to November 31, 2014, unless cancelled earlier by the Captain of the Port, Delaware Bay once all north jetty repair operations are completed. Vessel traffic will be notified of safety zone enforcement by a broadcast on VHF channel 16.

(c) *Regulations.* All persons are required to comply with the general regulations governing safety zones in 33 CFR 165.33 of this part.

(1) Recreational marine activities including but not limited to swimming, diving, and fishing are not permitted within the zone.

(2) All persons and vessels must transit through the safety zone one vessel at a time and may not engage in activity other than transit directly through the inlet unless otherwise authorized by the Captain of the Port or her representative.

(3) All persons or vessels wishing to transit through the safety zone more than one vessel at a time must request authorization to do so from the Captain of the Port or her representative 36 hours prior to the intended time of transit.

(4) Vessels granted permission to transit more than one vessel at a time must do so in accordance with the directions provided by the Captain of the Port or her representative to the vessel.

(5) To seek permission to transit the safety zone more than one vessel at a time, the Captain of the Port, or her representative, can be contacted via Sector Delaware Bay Command Center (215) 271–4940.

(6) This section applies to all persons and vessels wishing to transit through the Safety Zone except vessels that are engaged in the following operations:

(i) Enforcing laws;

(ii) Servicing aids to navigation; and

(iii) Emergency response vessels.

(7) Each person and vessel in a safety zone shall obey any direction or order of the Captain of the Port;

(8) No person may board, or take or place any article or thing on board, any vessel in a safety zone without the permission of the Captain of the Port.

(d) *Definitions*—(1) *Captain of the Port* means the Commander, Sector Delaware Bay, or any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port to act on her behalf.

(e) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the safety zone by Federal, State, and local agencies.

Dated: March 7, 2014.

K. Moore,

Captain, U.S. Coast Guard, Captain of the Port Delaware Bay.

[FR Doc. 2014–06247 Filed 3–20–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

[NPS–LAMR–15022; PPIMLAMRS0, PPMPSPD1Z.YM0000]

RIN 1024–AE12

Special Regulations, Areas of the National Park System, Lake Meredith National Recreation Area, Bicycling

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: Through the preparation of a Multi-Use Trail Environmental Assessment, the National Park Service has decided to construct an unpaved, multi-use recreational trail in Lake Meredith National Recreation Area. The multi-use trail will be approximately 22 miles in length and be open to pedestrian and bicycle use only. National Park Service regulations require promulgation of a special regulation to designate new routes for bicycle use off park roads and outside developed areas. The multi-use trail will consist of five contiguous sections constructed in five phases, as resources become available. This multi-use trail will help address the lack of land-based recreational opportunities in the region; increase the availability of interpretive resources in the recreation area; provide a firebreak at the urban-wildland interface; and improve access for emergency response personnel.

DATES: The rule is effective April 21, 2014.

FOR FURTHER INFORMATION CONTACT: Arlene Wimer, Chief of Resource Management, Lake Meredith National Recreation Area, at 806–857–0309 or at the address listed in the **ADDRESSES** section.

SUPPLEMENTARY INFORMATION:

Background

Congress established Lake Meredith National Recreation Area (LAMR or recreation area) in 1990 ''to provide for public outdoor recreation use and enjoyment of the lands and waters associated with Lake Meredith in the State of Texas, and to protect the scenic, scientific, cultural, and other values contributing to the public enjoyment of such lands and waters. . . .'' Situated approximately 35 miles north of Amarillo, Texas within Potter, Moore, Hutchinson, and Carson counties, LAMR is approximately 45,000 acres in size and is the largest public landmass in the Texas Panhandle.

Purpose of Multi-Use Trail

Recreational Opportunities

LAMR provides water-based public recreational opportunities such as fishing, boating, water skiing, and swimming. However, dropping water levels have caused a substantial loss of public access to the lake and a corresponding reduction in water-based recreational opportunities. Visitation to the recreation area has declined over the last 10 years, and lower water levels and reduced access could be a contributing factor to this decline in use. Water levels are not expected to increase in the near future, and the addition of a multi-use trail could provide visitors with an alternative, land-based form of recreation which may attract more visitors to LAMR.

LAMR provides some land-based recreational opportunities, such as hiking, horseback riding, hunting, off-road vehicle use, and camping. Over the past several years, bicycling has become more popular in the Texas Panhandle, as evidenced by increased bike use at nearby Palo Duro Canyon State Park. A multi-use trail at LAMR will help address the increasing demand for bike trails in the Texas Panhandle. The multi-use trail will also provide additional hiking opportunities on the trail, and primitive camping opportunities in Turkey Creek Canyon.

Interpretive Resources

LAMR contains natural and cultural resources that are unique to the region. The natural and geologic resources of the recreation area have enabled human survival, subsistence, and adaptation that have resulted in a continuum of human presence in the area for more than 13,000 years. Cultural sites in LAMR and the adjacent Alibates Flint Quarries National Monument offer views of lifeways in cultural periods from the Paleo Indians (9,500 BC–6,000 BC) to the present day. The exposed geologic features on the walls of the Canadian River valley (i.e. the ''breaks'') reveal active geologic processes that are easily visible to an extent not present elsewhere in the region. The topography and geography of the Canadian River breaks create a divergence from the surrounding landscape that offers scenic values and opportunities not found elsewhere in the region.

Despite these extraordinary resources, LAMR lacks interpretive facilities to allow visitors to fully understand and appreciate them. The multi-use trail will allow visitors to experience additional areas of the recreation area that visitors cannot currently access, while educating and promoting stewardship for LAMR's natural and cultural resources. Kiosks will be installed at the two trail heads located at Harbor Bay, providing visitors with trail rules, maps, advisories, closures, and safety precautions. Interpretive signage and trail markers will be primitive and placed at appropriate locations along the trail to provide information on cultural and natural resources and to ensure visitors remain on trails and do not get lost or damage recreation area resources.

Wildfires and Public Safety

Wildfires pose a substantial threat to public safety in and around LAMR. The elimination of grazing operations in the recreation area and periods of prolonged drought have increased the potential for catastrophic wildfire events. The number and location of roads and trails in the recreation area are limited, and as such, firefighting crews have difficulty accessing certain areas of the recreation area. The multi-use trail will serve as a firebreak and will provide firefighting crews additional access to previously inaccessible areas in the event of a wildfire. Construction of the trail will also provide emergency service access to hard to reach areas of the recreation area, reducing response times for emergency and rescue teams and improving visitor safety.

Environmental Assessment

In January 2010, LAMR published the Multi-Use Trail Environmental Assessment (EA). The EA evaluated two alternatives. Under the no action alternative (Alternative A), the multi-use trail would not be constructed. Under the action alternative (Alternative B), the multi-use trail would be constructed. On January 17, 2012, the National Park Service (NPS) signed a Finding of No Significant Impact (FONSI) which identified Alternative B as the selected action and concluded that constructing the multi-use trail will not have a significant effect on the human environment. Under Alternative B, LAMR will construct the multi-use trail in five phases totaling approximately 22 miles. Phase One will be located in the Harbor Bay and Fritch Canyon area; Phase Two will be between Harbor Bay and Short Creek; Phase Three will be located between Short Creek and South Turkey Creek; Phase Four will start at the mouth of South Turkey Creek and continue up the canyon; and Phase Five will be located between Fritch Fortress and the northern portion of phase one. Construction of each phase will occur as funding becomes available. To date, the park has constructed 5.5 miles of trail and plans to complete an additional 14 miles in 2014.

The EA and FONSI, which contain a full description of the purpose and need for taking action, the alternatives considered, public comments on the alternatives, maps of the multi-use trail, and the environmental impacts associated with the project, may be viewed on the recreation area's planning Web site at *http://parkplanning.nps.gov/lamr,* by clicking on the link entitled ''Archived Projects'' and then clicking the link entitled ''Lake Meredith Recreation Area Multi-Use Trail'' and then clicking on the link entitled ''Document List.''

Final Rule

This rule complies with the general requirement of 36 CFR 4.30, which requires a special regulation to designate new bicycle routes off park roads and outside of developed areas. This rule adds a new paragraph (h) to the special regulations for LAMR (36 CFR 7.57), authorizing designation of the 22-mile-long multi-use trail as a route for bicycle use. This rule also authorizes the Superintendent to impose closures or restrictions for bicycle use on designated routes after taking into consideration public health and safety, resource protection, and other management activities and objectives, provided public notice is given under 36 CFR 1.7.

Changes From the Proposed Rule

The NPS received only one public comment on the proposed rule, which supported the designation of the multi-use trail. There are no substantive changes in the final rule, although a typographical error was fixed.

Compliance With Other Laws, Executive Orders and Department Policy

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget 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 Executive Order 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. Executive Order 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

This rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This certification is based on information contained in the economic analyses found in the report entitled ''Cost-Benefit and Regulatory Flexibility Analyses: Proposed Regulations for Trail Management in Lake Meredith Recreation Area'' which is available online at *http://parkplanning.nps.gov/lamr* by clicking on the link entitled ''Archived Projects'' and then clicking the link entitled ''Lake Meredith Recreation Area Multi-Use Trail'' and then clicking on the link entitled ''Document List.''

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

(a) Does not have an annual effect on the economy of $100 million or more.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local or tribal governments or the private sector. It addresses public use of national park lands, and imposes no requirements on other agencies or governments. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings (Executive Order 12630)

This rule does not affect a taking of private property or otherwise have takings implications under Executive Order 12630. A takings implication assessment is not required.

Federalism (Executive Order 13132)

Under the criteria in section 1 of Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism summary impact statement. This rule only affects use of NPS administered lands and waters. It has no outside effects on other areas. A Federalism summary impact statement is not required.

Civil Justice Reform (Executive Order 12988)

This rule complies with the requirements of Executive Order 12988. This rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Consultation With Indian Tribes (Executive Order 13175 and Department Policy)

The Department of the Interior strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation with Indian Tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria in Executive Order 13175 and have determined that it has no substantial direct effects on federally recognized Indian tribes and that consultation under the Department's tribal consultation policy is not required. During the EA process, NPS consulted with the 10 Native American groups associated with LAMR and determined that there are no potential effects.

Paperwork Reduction Act

This rule does not contain information collection requirements, and a submission to the Office of Management and Budget under the Paperwork Reduction Act is not required. 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.

National Environmental Policy Act

We prepared the EA to determine whether this rule will have a significant impact on the quality of the human environment under the National Environmental Policy Act of 1969. This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 is not required because we reached a FONSI. A copy of the EA and FONSI can be found online at *http://parkplanning.nps.gov/lamr* by clicking on the link entitled ''Archived Projects'' and then clicking the link entitled ''Lake Meredith Recreation Area Multi-Use Trail'' and then clicking on the link entitled ''Document List,'' or may be obtained by contacting: Superintendent, Lake Meredith National Recreation Area, P.O. Box 1460, Fritch, TX 79036.

Effects on the Energy Supply (Executive Order 13211)

This rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects in not required.

Drafting Information: The primary authors of this regulation are Arlene Wimer, Chief of Resources, Lake Meredith National Recreation Area; Cheryl Eckhardt, Environmental Quality Specialist, National Park Service Intermountain Region; and Jay P. Calhoun, Regulations Program Specialist, National Park Service.

List of Subjects in 36 CFR Part 7

National parks, Reporting and Recordkeeping requirements.

In consideration of the foregoing, the National Park Service amends 36 CFR part 7 as set forth below:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

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

Authority: 16 U.S.C. 1, 3, 9a, 462(k); Sec. 7.96 also issued under 36 U.S.C. 501–511, D.C. Code 10–137 (2001) and D.C. Code 50–2201 (2001).

■ 2. In § 7.57 add paragraph (h) to read as follows:

§ 7.57 Lake Meredith National Recreation Area.

* * * * *

(h) *Bicycling.* (1) The Superintendent may designate for bicycle use routes or portions of routes in the following sections of the park's multi-use recreational trail:

(i) Harbor Bay-Fritch Canyon area (approximately 5.7 miles);

(ii) Harbor Bay Short-Creek area (approximately 3.3 miles);

(iii) Short Creek-South Turkey Creek area (approximately 2.8 miles);

(iv) South Turkey Creek area (approximately 4.4 miles); and

(v) Fritch Fortress area (approximately 5.2 miles).

(2) Designation of bicycle routes or portions of routes shall be implemented with a written determination that the route is open for public use and that such bicycle use is consistent with the protection of the park area's natural, scenic and aesthetic values, safety considerations and management objectives, and will not disturb wildlife or park resources. Notice may be provided by posting signs and identifying routes on maps which shall be available in the office of the Superintendent and on the park's Web site.

(3) The Superintendent may open or close designated bicycle routes, or portions thereof, or impose conditions or restrictions for bicycle use after taking into consideration public health and safety, natural and cultural resource protection, carrying capacity, and other management activities and objectives.

(i) The Superintendent will provide public notice of all such actions through one or more of the methods listed in § 1.7 of this chapter.

(ii) Violating a closure, condition, or restriction is prohibited.

Dated: March 11, 2014.

Michael Bean,

Acting Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2014–06239 Filed 3–20–14; 8:45 am]

BILLING CODE 4312–EJ–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AO21

Criteria for a Catastrophically Disabled Determination for Purposes of Enrollment; Correction

AGENCIES: Department of Veterans Affairs.

ACTION: Final rule; correction.

SUMMARY: The Department of Veterans Affairs published in the **Federal Register** on December 3, 2013, a document amending its regulation concerning the manner in which VA determines that a veteran is catastrophically disabled for purposes of enrollment in priority group 4 for VA health care. The Regulation Identifier Number, 2900–AO21, in the heading was typed incorrectly. This document corrects the Regulation Identifier Number.

DATES: Effective: March 21, 2014.

FOR FURTHER INFORMATION CONTACT: Consuela Benjamin, Regulations Development Coordinator, Regulation Policy and Management, Office of the General Counsel, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 461–4902. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Correction

In final rule document 2013–28858, published on December 3, 2013 at 78 FR 72576, make the following correction:

On page 72576, in the third column, correct the Regulation Identifier Number (RIN) in the heading to read ''RIN 2900–AO21'' instead of ''RIN 2900–A021''.

Dated: March 18, 2014.

Janet Coleman,

Acting Chief, Regulations Development, Tracking, and Control, Regulation Policy and Management, Office of the General Counsel, Department of Veterans Affairs.

[FR Doc. 2014–06222 Filed 3–20–14; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2013–0663; FRL–9908–09–Region9]

Partial Approval and Partial Disapproval of Air Quality State Implementation Plans; Nevada; Infrastructure Requirements for Lead (Pb)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving in part and disapproving in part State Implementation Plan (SIP) revisions submitted by the State of Nevada pursuant to the requirements of the Clean Air Act (CAA) for the 2008 lead (Pb) 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 the EPA, and that EPA act on such SIPs. Nevada has met most of the applicable requirements. Where EPA is disapproving, in part, Nevada's SIP revisions, most of the deficiencies have already been addressed by a federal implementation plan (FIP). For one remaining deficiency, this final rule sets a two-year deadline for EPA to promulgate a FIP, unless EPA approves an adequate SIP revision prior to that time. EPA remains committed to working with Nevada's environmental agencies to develop such a SIP revision.

DATES: This final rule is effective on April 21, 2014.

ADDRESSES: EPA has established a docket for this action, identified by Docket ID Number EPA–R09–OAR–2013–0663. The index to the docket for this action is available electronically at *http://www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., confidential business information (CBI)). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed directly below.

FOR FURTHER INFORMATION CONTACT: Rory Mays, Air Planning Office (AIR–2), U.S. Environmental Protection Agency, Region IX, (415) 972–3227, *mays.rory@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, the terms ''we,'' ''us,'' and ''our'' refer to EPA.

Table of Contents

I. Background
II. EPA's Response to Comments
III. Final Action
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I. Background

Section 110(a)(1) of the CAA requires each state to submit to EPA, within three years (or such shorter period as the Administrator may prescribe) after the promulgation of a primary or secondary NAAQS or any revision thereof, a SIP that provides for the ''implementation, maintenance, and enforcement'' of such NAAQS. EPA refers to these specific submissions as ''infrastructure'' SIPs because they are intended to address basic structural SIP requirements for new or revised NAAQS.

On October 15, 2008, EPA issued a revised NAAQS for Pb.[1] This NAAQS

[1] 73 FR 66964. The final rule was signed on October 15, 2008 and published in the **Federal Register** on November 12, 2008. The 1978 Pb standard (1.5 μg/m3 as a quarterly average) was

Continued

revision triggered a requirement for states to submit an infrastructure SIP to address the applicable requirements of section 110(a)(2) within three years. The Nevada Division of Environmental Protection (NDEP) submitted infrastructure SIP revisions for Pb to EPA on October 12, 2011, for the NDEP and Washoe County portions of the SIP; July 23, 2012, for the Clark County portion of the SIP; and August 30, 2012, which amended several of the state's infrastructure SIP submittals, including the October 12, 2011 submittal for the 2008 Pb NAAQS. We refer to them collectively herein as ''Nevada's Pb Infrastructure Submittal.''

On October 29, 2013 (78 FR 64430), EPA proposed to approve in part, and disapprove in part, these SIP revisions addressing the infrastructure requirements of CAA section 110(a)(1) and (2) for the 2008 Pb NAAQS. We are taking final action on all three submittals since they collectively address the applicable infrastructure SIP requirements for the 2008 Pb NAAQS.

The rationale supporting EPA's action is explained in our October 29, 2013 Notice of Proposed Rulemaking (proposed rule) [2] and the two associated technical support documents (TSDs) [3] and will not be restated here. The proposed rule and TSDs are available online at *http://www.regulations.gov,* Docket ID number EPA–R09–OAR–2013–0663.

II. EPA's Response to Comments

The public comment period on EPA's proposed rule opened on October 29, 2013, the date of its publication in the **Federal Register**, and closed on November 29, 2013. During this period, EPA received one comment letter from NDEP on November 27, 2013 (herein ''NDEP's comment letter''). This letter is available in the docket to today's final rule.[4]

Comment:

NDEP notes that EPA proposed to disapprove the portion of Nevada's Pb Infrastructure Submittal related to prevention of significant deterioration (PSD) permit programs for NDEP and Washoe County because the programs do not completely satisfy the statutory and regulatory requirements for PSD permit programs. NDEP also notes, however, that EPA recognizes that the deficiencies related to the PSD programs are adequately addressed by the existing federal implementation plan (FIP), for which EPA has delegated enforcement authority to NDEP and Washoe County District Health Department (WCDHD). Moreover, NDEP argues that ''its PSD program is ultimately SIP-based'' [5] and refers to page 4 of its October 12, 2011 submittal wherein NDEP states that it has full delegation of the federal PSD program at 40 CFR 52.21, including provisions that tailored the PSD permitting thresholds for greenhouse gases. NDEP's comment letter then asserts that the portion of Nevada's SIP found at 40 CFR 52.1485(b), which incorporates EPA's PSD FIP provisions in the Nevada SIP, make EPA's PSD FIP a part of the SIP, with the exception of the portion applicable to Clark County. As such, NDEP believes that the elements of Nevada's Pb Infrastructure Submittal related to PSD programs under the jurisdiction of NDEP and WCDHD should be approved.

Response:

We disagree with NDEP's argument that Nevada's Pb Infrastructure Submittal should be approved for PSD-related infrastructure SIP requirements for the NDEP and WCDHD jurisdictions. We note that NDEP and WCDHD submitted similar comments in 2012 with respect to EPA's proposed rulemaking on infrastructure SIPs for the 1997 ozone, 1997 fine particulate matter ($PM_{2.5}$), and 2006 $PM_{2.5}$ NAAQS. Our response to NDEP's comment largely reiterates our response to NDEP and WCDHD's comments on delegated PSD FIP programs during our 2012 rulemaking on Nevada's infrastructure SIPs.[6]

The CAA requires each state to adopt and submit a plan which provides for implementation, maintenance, and enforcement of the NAAQS. *See* CAA section 110(a)(1). Section 110(a)(2) sets forth the content requirements for such plans, including the requirement for a permit program as required in part C (''Prevention of Significant Deterioration of Air Quality,'' or ''PSD'') of title I of the CAA. Such plans are referred to as state implementation plans or SIPs.

EPA's authority to promulgate a FIP derives from EPA's determination that a state has failed to submit a complete, required SIP submission or from EPA's disapproval of a state submission of a SIP or SIP revision. *See* CAA section 110(c)(1). The SIP, viewed broadly, thus includes both portions of the plan submitted by the state and approved by EPA as well as any FIP promulgated by EPA to substitute for a state plan disapproved by EPA or not submitted by a state.[7]

In 1974, EPA disapproved each state's SIP with respect to PSD and promulgated a FIP as a substitute for the SIP deficiency (''PSD FIP'').[8] In 1975, EPA codified the PSD FIP in each state's subpart in 40 CFR part 52.[9] In 1978 and 1980, EPA amended the PSD regulations following the Clean Air Act Amendments of 1977 and related court decisions and amended the codification of the PSD FIP in each state's subpart, including 40 CFR 52.1485, accordingly.[10]

Since then, EPA has approved the PSD SIP for the sources and geographic area that lie within the jurisdiction of Clark County Department of Air Quality (DAQ), and has delegated responsibility for conducting PSD review, as per the PSD FIP, to NDEP and WCDHD. Notwithstanding the delegation, however, the Nevada SIP remains deficient with respect to PSD for the geographic areas and stationary sources that lie within NDEP and WCDHD's jurisdictions. As such, EPA's disapproval of the infrastructure SIP submittals for those elements that require states to have a SIP that includes a PSD permit program, including CAA sections 110(a)(2)(C), (D)(i)(II), (D)(ii), and (J), is appropriate because EPA disapproved the state's submitted plan as not adequately addressing PSD program requirements. To conclude otherwise would be inconsistent with the long-standing and current disapproval of the SIP for PSD for the applicable areas, with the statutory foundation upon which the PSD FIP is authorized, and with the obligation under section 110(a) for each state to adopt and submit a plan for implementation, maintenance, and enforcement of the NAAQS that includes a PSD program. EPA's delegation of the PSD FIP is not the same as state adoption and submittal of state or district rules meeting PSD requirements and EPA's approval thereof.

modified to a rolling 3-month average not to exceed 0.15 μg/m3. EPA also revised the secondary NAAQS to 0.15 μg/m3 and made it identical to the revised primary standard.

[2] 78 FR 64430, October 29, 2013.

[3] The two TSDs are as follows: (1) ''Pb Infrastructure SIP Technical Support Document: EPA Evaluation of Nevada Infrastructure SIP for 2008 Pb NAAQS,'' September 2013 (''Pb TSD''); and (2) ''Technical Support Document: EPA Evaluation of Nevada Provisions for Section 110(a)(2)(E)(ii)/Section 128 Conflict of Interest Requirements,'' July 2012 (''Section 128 TSD''), which was prepared for our 2012 rulemaking on Nevada's infrastructure SIPs for the 1997 ozone, 1997 fine particulate matter ($PM_{2.5}$), and 2006 $PM_{2.5}$ NAAQS (77 FR 64737, October 23, 2012).

[4] *See* document number EPA–R09–OAR–2013–0663–0010 at *http://www.regulations.gov* under docket ID number EPA–R09–OAR–2013–0663.

[5] NDEP's comment letter, p 1.

[6] 77 FR 64737, October 23, 2012.

[7] 40 CFR 52.02(b).

[8] 39 FR 42510, December 5, 1974.

[9] 40 FR 25004, June 12, 1975, adding 40 CFR 52.1485 to Subpart DD—Nevada.

[10] 43 FR 26380, June 19, 1978 and 45 FR 52676, August 7, 1980.

III. Final Action

Under CAA section 110(k)(3), and based on the evaluation and rationale presented in the proposed rule, the related TSDs, and this final rule, EPA is approving in part and disapproving in part Nevada's Pb Infrastructure Submittal for the 2008 Pb NAAQS. In the following subsections, we list the elements for which we are finalizing approval or disapproval and provide a summary of the basis for those elements that are partially disapproved. We also describe the consequences of our disapprovals.

A. Summary of Approvals

EPA is approving Nevada's Pb Infrastructure Submittal with respect to the following requirements:

- Section 110(a)(2)(A): Emission limits and other control measures.
- Section 110(a)(2)(B): Ambient air quality monitoring/data system.
- Section 110(a)(2)(C) (in part): Program for enforcement of control measures and regulation of new and modified stationary sources.
- Section 110(a)(2)(D)(i) (in part): Interstate pollution transport.
- Section 110(a)(2)(D)(ii) (in part): Interstate pollution abatement and international air pollution.
- Section 110(a)(2)(E): Adequate resources and authority, conflict of interest, and oversight of local and regional government agencies.
- Section 110(a)(2)(F) (in part): Stationary source monitoring and reporting.
- Section 110(a)(2)(G): Emergency episodes.
- Section 110(a)(2)(H): SIP revisions.
- Section 110(a)(2)(J) (in part): Consultation with government officials, public notification, and prevention of significant deterioration (PSD) and visibility protection.
- Section 110(a)(2)(K): Air quality modeling and submission of modeling data.
- Section 110(a)(2)(L): Permitting fees.
- Section 110(a)(2)(M): Consultation/participation by affected local entities.

B. Summary of Disapprovals

EPA is disapproving Nevada's Pb Infrastructure Submittal with respect to the following infrastructure SIP requirements:

- Section 110(a)(2)(C) (in part): Program for enforcement of control measures and regulation of new and modified stationary sources.
- Section 110(a)(2)(D)(i) (in part): Interstate pollution transport.
- Section 110(a)(2)(D)(ii) (in part): Interstate pollution abatement and international air pollution.
- Section 110(a)(2)(F) (in part): Stationary source monitoring and reporting.
- Section 110(a)(2)(J) (in part): Consultation with government officials, public notification, and prevention of significant deterioration (PSD) and visibility protection.

As explained in our proposed rule, Pb TSD, and section II of this final rule, we are disapproving Nevada's Pb Infrastructure Submittal for the NDEP and Washoe County portions of the SIP with respect to the PSD-related requirements of CAA sections 110(a)(2)(C), 110(a)(2)(D)(i)(II), 110(a)(2)(D)(ii), and 110(a)(2)(J) because the Nevada SIP does not fully satisfy the statutory and regulatory requirements for PSD permit programs under part C, title I of the Act. Both NDEP and WCDHD implement the Federal PSD program in 40 CFR 52.21 for all regulated new source review (NSR) pollutants, pursuant to delegation agreements with EPA.[11] Accordingly, although the Nevada SIP remains deficient with respect to PSD requirements in both the NDEP and Washoe County portions of the SIP, these deficiencies are adequately addressed in both areas by the federal PSD program.

We are disapproving the Clark County portion of Nevada's Pb Infrastructure Submittal with respect to the PSD-related requirements of CAA sections 110(a)(2)(C), 110(a)(2)(D)(i)(II), and 110(a)(2)(J) because Clark County's SIP-approved PSD permit program does not contain provisions that satisfy the statutory and regulatory requirements concerning condensable PM and $PM_{2.5}$ increments under part C, title I of the Act and in 40 CFR 51.166.[12] As discussed in our proposed rule, we address these PSD requirements for $PM_{2.5}$ as part of this final rule on Nevada's Pb Infrastructure Submittal for the 2008 Pb NAAQS because section 110(a)(2) of the Act requires that each SIP contain a comprehensive PSD permitting program that addresses all regulated NSR pollutants, including greenhouse gases (GHGs).

We are also disapproving the NDEP and Clark County portions of Nevada's Pb Infrastructure Submittal with respect to section 110(a)(2)(C) because of unique circumstances regarding NDEP and Clark County's minor NSR permit programs. Specifically, the NDEP and Clark County minor NSR programs, as approved into the Nevada SIP, lack provisions to address the 2008 Pb NAAQS, and thus we cannot rely on these programs to ensure that new and modified sources regulated under minor NSR do not interfere with attainment and maintenance of the 2008 Pb NAAQS.[13] Note, however, that within this final rule, we are not approving or disapproving any existing or new minor NSR regulation.[14]

We are disapproving the Clark County portion of the SIP for section 110(a)(2)(F)(iii) because Clark County has repealed its regulation, Section 24, that formerly addressed the correlation requirement of this subsection, without submitting a SIP revision to replace it.

C. Consequences of Disapprovals

EPA takes very seriously a disapproval of a state plan, as we believe that it is preferable, and preferred in the provisions of the Clean Air Act, that these requirements be implemented through state plans. A state plan need not contain exactly the same provisions that EPA might require, but EPA must be able to find that the state plan is consistent with the requirements of the Act in accordance with its obligations under section 110(k). Further, EPA's oversight role requires that it assure consistent implementation of Clean Air Act requirements by states across the country, even while acknowledging that individual decisions from source to source or state to state may not have identical outcomes. EPA believes these

[11] 40 CFR 52.1485.

[12] Requirements for condensable PM were promulgated in EPA's NSR/PSD implementation rule for the 1997 $PM_{2.5}$ NAAQS. *See* 73 FR 28321, May 16, 2008; codified at 40 CFR 51.166(b)(49). Requirements for PSD increments for $PM_{2.5}$ were promulgated in EPA's PSD implementation rule for the 1997 $PM_{2.5}$ and 2006 $PM_{2.5}$ NAAQS. *See* 75 FR 64864, October 20, 2010; codified at 40 CFR 51.166(c).

[13] Regarding NDEP's minor NSR permit program, *see* our proposal (77 FR 38557 at 38564, June 28, 2012) and final rule (77 FR 59321 at 59325–59326, September 27, 2012). Regarding Clark County's NSR permit programs, *see* our proposal (77 FR 43206, July 24, 2012) and final rule (77 FR 64309, October 18, 2012). These final rules and their context specific to the 2008 Pb NAAQS are discussed further in our Pb TSD.

[14] The Nevada State Environmental Commission revised Nevada Administrative Code 445B.22097 (''Standards of quality for ambient air''), effective December 23, 2013, such that the state ambient air quality standards for Pb and ozone would reflect the 2008 Pb and 2008 ozone NAAQS. NDEP submitted the revised rule to EPA as a revision to the Nevada SIP on January 3, 2014. It was submitted, in part, to address the minor NSR requirement of CAA section 110(a)(2)(C) for the 2008 Pb NAAQS for the NDEP portion of the Nevada SIP. While EPA may determine this SIP revision to be adequate for purposes of minor NSR for the 2008 Pb NAAQS for the NDEP portion of the SIP, EPA is still required to partially disapprove Nevada's Pb Infrastructure Submittal for section 110(a)(2)(C) due to other permit program deficiencies discussed in this section (section III.B) of this final rule for each of the three jurisdictions in Nevada.

disapprovals are the only path that is consistent with the Act at this time.

Under section 179(a) of the CAA, final disapproval of a submittal that addresses a requirement of part D of title I of the CAA (CAA sections 171–193) or is required in response to a finding of substantial inadequacy as described in CAA section 110(k)(5) (SIP Call) starts a sanctions clock. Nevada's Pb Infrastructure Submittal was not submitted to meet either of these requirements. Therefore, our partial disapproval of Nevada's Pb Infrastructure Submittal does not trigger mandatory sanctions under CAA section 179.

In addition, CAA section 110(c)(1) provides that EPA must promulgate a FIP within two years after finding that a state has failed to make a required submission or disapproving a SIP submission in whole or in part, unless EPA approves a SIP revision correcting the deficiencies within that two-year period. As discussed in section III.B of this final rule and in our Pb TSD, we are finalizing several partial disapprovals. With one exception, however, these disapprovals do not result in new FIP obligations, either because EPA has already promulgated a FIP to address the identified deficiency or because a FIP clock has been triggered by EPA's disapproval of a prior SIP submission based on the same identified deficiency. The provisions for which our final partial disapproval do not result in a new FIP obligation include:

- PSD-related requirements in sections 110(a)(2)(C), 110(a)(2)(D)(i)(II), 110(a)(2)(D)(ii), and 110(a)(2)(J): For NDEP and Washoe County, EPA has already promulgated the federal PSD program (see 40 CFR 52.1485);
- PSD-related requirements in sections 110(a)(2)(C), 110(a)(2)(D)(i)(II), and 110(a)(2)(J): For Clark County, EPA's October 18, 2012 final action on Clark County's PSD regulations triggered a November 19, 2014 deadline for EPA to promulgate a FIP addressing this requirement (77 FR 64039);
- Minor NSR requirement in section 110(a)(2)(C): EPA's September 27, 2012 final action on NDEP's minor NSR regulations (77 FR 59321) and October 18, 2012 final action on Clark County's minor NSR regulations (77 FR 64039) triggered deadlines of October 29, 2014 and November 19, 2014, respectively, for EPA to promulgate FIPs addressing the identified deficiencies;
- Section 110(a)(2)(F)(iii): For Clark County, EPA's October 23, 2012 final action on Nevada's Infrastructure SIP submittals for the 1997 ozone, 1997 $PM_{2.5}$, and 2006 $PM_{2.5}$ NAAQS (77 FR 64737) triggered a November 23, 2014 deadline for EPA to promulgate a FIP addressing the requirement for correlation of stationary source emissions with emission limits.

The one disapproval that triggers a new FIP clock concerns the requirement under sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) and 110(a)(2)(J) regarding PSD increments for $PM_{2.5}$ in Clark County. EPA has not previously promulgated a FIP or triggered a FIP clock through disapproval of a prior SIP submission based on this deficiency. Thus, under CAA section 110(c)(1), our partial disapproval of the Clark County portion of Nevada's Pb Infrastructure Submittal based on this deficiency requires EPA to promulgate a FIP establishing $PM_{2.5}$ increments for Clark County within two years after the effective date of this final rule, unless the state submits and EPA approves a SIP revision that corrects this deficiency prior to the expiration of this two-year period.

We anticipate that NDEP will submit SIP revisions to address the deficiencies identified in EPA's 2012 actions on NDEP's minor NSR program,[15] Clark County's NSR permit programs (i.e., both PSD and minor NSR),[16] Nevada's infrastructure SIPs for the 1997 ozone, 1997 $PM_{2.5}$, and 2006 $PM_{2.5}$ NAAQS, and today's final action on Nevada's Pb Infrastructure Submittal prior to expiration of the two-year FIP deadline triggered by each of these actions. EPA approval of such revisions would serve to address the partial disapprovals of the Nevada Pb Infrastructure Submittal where no FIP is currently in place (i.e., the disapprovals finalized herein, except for those tied to the federal PSD programs for sources under NDEP and WCDHD's jurisdiction).

[15] NDEP submitted a SIP revision on January 3, 2014 to address some of the deficiencies identified in EPA's 2012 action on NDEP's minor NSR program, as noted in section III.B of this final rule. If EPA determines that this SIP revision is adequate for purposes of minor NSR for the 2008 Pb NAAQS, EPA approval would remove the obligation for EPA to promulgate a FIP by October 29, 2014 for minor NSR for the 2008 Pb NAAQS for the NDEP portion of the Nevada SIP only.

[16] On February 2, 2014, Clark County DAQ issued a 30-day public notice of proposed amendments to air quality regulations related primarily to permitting of new stationary sources. These proposed rule amendments are intended to address the deficiencies identified in EPA's 2012 rulemaking on Nevada's permit program and infrastructure SIP submittals for Clark County and other new source review requirements that have come due since those rulemakings.

IV. Statutory and Executive Order Reviews

A. Executive Order 12866, Regulatory Planning and Review

This action is not a ''significant regulatory action'' under the terms of Executive Order (EO) 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under the EO.

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., because this partial approval and partial disapproval of SIP revisions under CAA section 110 will not in-and-of itself create any new information collection burdens but simply approves certain State requirements, and disapproves certain other State requirements, for inclusion into the SIP. Burden is defined at 5 CFR 1320.3(b).

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's rule on small entities, I certify that this action will not have a significant impact on a substantial number of small entities. This rule does not impose any requirements or create impacts on small entities. This partial SIP approval and partial SIP disapproval under CAA section 110 will not in-and-of itself create any new requirements but simply approves certain State requirements, and disapproves certain other State requirements, for inclusion into the SIP. Accordingly, it affords no opportunity for EPA to fashion for small entities less burdensome compliance or reporting

requirements or timetables or exemptions from all or part of the rule. Therefore, this action will not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

This action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for State, local, or tribal governments or the private sector. EPA has determined that the partial approval and partial disapproval action does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This action approves certain pre-existing requirements, and disapproves certain other pre-existing requirements, under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

E. Executive Order 13132, Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely approves certain State requirements, and disapproves certain other State requirements, for inclusion into the SIP and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, Executive Order 13132 does not apply to this action.

F. Executive Order 13175, Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP on which EPA is proposing action would not 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. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

EPA interprets EO 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the EO has the potential to influence the regulation. This action is not subject to EO 13045 because it is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997). This partial approval and partial disapproval under CAA section 110 will not in-and-of itself create any new regulations but simply approves certain State requirements, and disapproves certain other State requirements, for inclusion into the SIP.

H. Executive Order 13211, Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

EPA believes that this action is not subject to requirements of Section 12(d) of NTTAA because application of those requirements would be inconsistent with the Clean Air Act.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Population

Executive Order (EO) 12898 (59 FR 7629, Feb. 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA lacks the discretionary authority to address environmental justice in this rulemaking.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. section 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. section 804(2). This rule will be effective on April 21, 2014.

L. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by *May 20, 2014.* Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations,

Lead, Pb, Particulate matter, Reporting and recordkeeping requirements.

Dated: February 28, 2014.

Jared Blumenfeld,

Regional Administrator, Region 9.

Therefore, 40 CFR Chapter I 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 DD—Nevada

■ 2. In § 52.1470, in paragraph (e), the table is amended by adding entries for:

■ a. ''Nevada's Clean Air Act § 110(a)(1) and (2) State Implementation Plan for the 2008 Lead NAAQS, excluding appendices A–G for NDEP; and excluding the Washoe County District Board of Health Agenda, Minutes, Certificate of Adoption, Cover Letter to NDEP, and Proof of Publication''; and

■ b. ''Clark County Portion of Nevada's Clean Air Act § 110(a)(1) and (2) State Implementation Plan for the 2008 Lead NAAQS, excluding Cover Letter to NDEP and Clark County Air Quality Regulations'' after the entry for ''Section 12—Resources''.

The additions as follows:

§ 52.1470 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED NEVADA NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES

Name of SIP provision	Applicable geographic or non-attainment area	State submittal date	EPA approval date	Explanation
Air Quality Implementation Plan for the State of Nevada				
*	*	*	*	*
Nevada's Clean Air Act § 110(a)(1) and (2) State Implementation Plan for the 2008 Lead NAAQS, excluding appendices A–G for NDEP; and excluding the Washoe County District Board of Health Agenda, Minutes, Certificate of Adoption, Cover Letter to NDEP, and Proof of Publication.	State-wide, within NDEP jurisdiction and Washoe County.	10/12/2011	[Insert **Federal Register** page number where the document begins] 03/21/2014.	''Infrastructure'' SIP for NDEP and Washoe County for the 2008 Pb standard.
Clark County Portion of Nevada's Clean Air Act § 110(a)(1) and (2) State Implementation Plan for the 2008 Lead NAAQS, excluding Cover Letter to NDEP and Clark County Air Quality Regulations.	Clark County	7/23/2012	[Insert **Federal Register** page number where the document begins] 03/21/2014.	''Infrastructure'' SIP for Clark County for the 2008 Pb standard.
*	*	*	*	*

■ 3. Section 52.1472 is amended by adding paragraph (g) to read as follows:

§ 52.1472 Approval status.

* * * * *

(g) *2008 Pb NAAQS:* The SIPs submitted on October 12, 2011, July 23, 2012, and August 30, 2012 are partially disapproved for Clean Air Act (CAA) elements 110(a)(2)(C), (D)(i)(II), and (J) for the Nevada Division of Environmental Quality (NDEP), Clark County, and Washoe County portions of the Nevada SIP; for CAA element (D)(ii) for the NDEP and Washoe County portions of the Nevada SIP; and for CAA element 110(a)(2)(F)(iii) for the Clark County portion of the Nevada SIP.

[FR Doc. 2014–06053 Filed 3–20–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2011–0012; FRL–9907–41]

Heat-killed Burkholderia spp. Strain A396 Cells and Spent Fermentation Media; 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 heat-killed *Burkholderia spp.* strain A396 cells and spent fermentation media in or on all food commodities when applied as a biological insecticide to agricultural crops and used in accordance with label directions and good agricultural practices. Marrone Bio Innovations, Inc., submitted a petition to the EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA) requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of heat-killed *Burkholderia spp.* strain A396 cells and spent fermentation media under FFDCA.

DATES: This regulation is effective March 21, 2014. Objections and requests for hearings must be received on or before May 20, 2014, 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–2011–0012, 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:

Michael Glikes, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 305–6231; email address: *glikes.michael@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(g), 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 the EPA, you must identify docket ID number EPA–HQ–OPP–2011–0012 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 May 20, 2014. 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–2011–0012, 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.htm.* Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

II. Background

In the **Federal Register** of February 25, 2011 (76 FR 10587) (FRL–8863–4), EPA issued a notice pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide tolerance petition (PP 0F7778) by Marrone Bio Innovations, Inc. 2121 Second Street, Suite B–107, Davis, CA 95618. The petition requested that 40 CFR part 180 be amended by establishing an exemption from the requirement of a tolerance for residues of *Burkholderia spp.* strain A396. Subsequently, the applicant modified its manufacturing process and changed the active ingredient from a live microbe to one that is inactivated by applying high temperatures during the production of the manufacturing product. Hence, the active ingredient in the end-use product applied to crops is ''heat-killed.'' The notice referenced a summary of the petition prepared by the petitioner, Marrone Bio Innovations Inc., which is available in the docket via *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

III. Final Rule

A The EPA's Safety Determination

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is ''safe.'' Section 408(c)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' Pursuant to FFDCA section 408(c)(2)(B), in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account the factors set forth in FFDCA section 408(b)(2)(C), which require EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance exemption 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. . . .'' Additionally, FFDCA section 408(b)(2)(D) requires that EPA consider ''available information concerning the cumulative effects of [a particular pesticide's] . . . residues and other substances that have a common mechanism of toxicity.''

EPA evaluated the available toxicity and exposure data on heat-killed *Burkholderia spp.* strain A396 cells and spent fermentation media and considered its validity, completeness, and reliability, as well as the relationship of this information to human risk. Based upon that evaluation, EPA concludes that there is a reasonable certainty that no harm will result to the U.S. population, including infants and children, from aggregate exposure to residues of heat-killed *Burkholderia spp.* strain A396 cells and spent fermentation media. Therefore, an exemption from the requirement of a tolerance is established for residues of heat-killed *Burkholderia spp.* strain A396 cells and spent fermentation media in or on all food commodities when applied to elicit induced systemic resistance in plants and used in accordance with label directions and good agricultural practices. A full explanation of the data upon which EPA

relied and its risk assessment based on that data can be found within the February 28, 2014 document entitled ''Federal Food, Drug, and Cosmetic Act (FFDCA) Considerations for Heat-killed *Burkholderia spp.* strain A396 cells and spent fermentation media.'' This document, as well as other relevant information, is available in the docket for this action as described under **ADDRESSES.**

B. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes for the reasons stated above and in the aforementioned February 28, 2014 document, and because EPA is establishing an exemption from the requirement of a tolerance without any numerical limitation.

C. 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. In this context, 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.

The Codex has not established a MRL for heat-killed *Burkholderia spp.* strain A396 cells and spent fermentation media.

IV. Statutory and Executive Order Reviews

This final rule establishes a tolerance exemption under FFDCA section 408(d) in response to a petition submitted to EPA. 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 tolerance 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. As a result, this action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, EPA 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, EPA 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 EPA 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).

V. 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: February 28, 2014.

Steve Bradbury,

Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

■ 2. Add § 180.1325 to subpart D to read as follows:

§ 180.1325 Heat-killed *Burkholderia spp.* strain A396 cells and spent fermentation media exemption from the requirement of a tolerance.

An exemption from the requirement of a tolerance is established for residues of heat-killed *Burkholderia spp.* strain A396 cells and spent fermentation media in or on all food commodities when applied as a biological insecticide to agricultural crops and used in accordance with label directions and good agricultural practices.

[FR Doc. 2014–06228 Filed 3–20–14; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

[Docket No. DOT–OST–2012–0123]

RIN 2105–AE28

Organization and Delegation of Powers and Duties

AGENCY: Office of the Secretary of Transportation (OST), U.S. Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: The Secretary of Transportation is authorized to delegate functions, powers, and duties as the Secretary deems appropriate. This rule amends the existing delegations of authority by relocating the delegations to the Inspector General currently found in the Department's regulations on the Freedom of Information Act and updates the delegation of authority to

the Inspector General to administer the Privacy Act for the Office of the Inspector General's records.

DATES: This rule is effective March 21, 2014.

ADDRESSES: The docket for this rulemaking is available at Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590, or electronically at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: John Allread, Attorney-Advisor, at *john.allread@dot.gov* or (202) 366–1428, or Claire McKenna, Attorney-Advisor, Office of the General Counsel, Department of Transportation, Washington, DC, at *claire.mckenna@dot.gov* or (202) 366–0365.

SUPPLEMENTARY INFORMATION: On August 17, 2012, the Office of the Secretary of Transportation (OST) updated its regulations governing the organization of the Department of Transportation and delegations of authority from the Secretary to Departmental officers. See 77 FR 49964. The final rule inadvertently omitted a delegation of authority to the Inspector General to administer the Freedom of Information Act (FOIA), 5 U.S.C. 552, and Privacy Act of 1974, 5 U.S.C. 552a, for the records of the Office of the Inspector General. Although the Inspector General has had authority to administer FOIA under 49 CFR part 7, OST wishes to consolidate all of its delegations in Part 1. This rule also updates the CFR to reflect the OIG's delegated authority to administer the Privacy Act for its records, and places the delegations to the Inspector General to administer the FOIA and Privacy Act for the Office of Inspector General's records within Part 1.

This final rule does not impose substantive requirements. It simply relocates a currently existing FOIA delegation to the Inspector General to 49 CFR part 1 and updates the CFR to represent the current organizational posture of the Department with regard to the Privacy Act. The final rule is ministerial in nature and relates only to Departmental management, procedure, and practice. Therefore, the Department has determined that notice and comment are unnecessary and that the rule is exempt from prior notice and comment requirements under 5 U.S.C. 553(b)(3)(A). This rule will not have a substantive impact on the public, as it will only clarify and relocate delegations to the Inspector General into the Department's other provisions on delegations found in 49 CFR part 1. Therefore, the Department finds that there is good cause under 5 U.S.C. 553(d)(3) to make this rule effective less than 30 days after publication in the **Federal Register**.

Regulatory Analyses and Notices

Executive Order 12866 (Regulatory Planning and Review), Executive Order 13563 (Improving Regulation and Regulatory Review), and DOT Regulatory Policies and Procedures

The DOT has considered the impact of this rulemaking action under Executive Orders 12866 and 13563 (January 18, 2011, ''Improving Regulation and Regulatory Review''), and the DOT's regulatory policies and procedures (44 FR 11034; February 26, 1979). The DOT has determined that this action does not constitute a significant regulatory action within the meaning of Executive Order 12866 and within the meaning of DOT regulatory policies and procedures. This rule has not been reviewed by the Office of Management and Budget. There are no costs associated with this rule.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this rule under the Administrative Procedure Act, 5 U.S.C. 553, the provisions of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612) do not apply. Even so, DOT has evaluated the effects of these changes on small entities and does not believe that this rule would impose any costs on small entities as it makes nonsubstantive corrections. Therefore, I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities.

National Environmental Policy Act

The agency has analyzed the environmental impacts of this action pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that it is categorically excluded pursuant to DOT Order 5610.1C, Procedures for Considering Environmental Impacts (44 FR 56420, Oct. 1, 1979). Categorical exclusions are actions identified in an agency's NEPA implementing procedures that do not normally have a significant impact on the environment and therefore do not require either an environmental assessment (EA) or environmental impact statement (EIS). See 40 CFR 1508.4. In analyzing the applicability of a categorical exclusion, the agency must also consider whether extraordinary circumstances are present that would warrant the preparation of an EA or EIS. *Id.* Paragraph 3.c.5 of DOT Order 5610.1C incorporates by reference the categorical exclusions for all DOT Operating Administrations. This action is covered by the categorical exclusion listed in the Federal Highway Administration's implementing procedures, ''[p]romulgation of rules, regulations, and directives.'' 23 CFR 771.117(c)(20). The purpose of this rulemaking is to update the agency's administrative delegations to the Office of the Inspector General. The agency does not anticipate any environmental impacts and there are no extraordinary circumstances present in connection with this rulemaking.

Executive Order 13132 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 dated August 4, 1999, and it has been determined that it does not have a substantial direct effect on, or sufficient federalism implications for, the States, nor would it limit the policymaking discretion of the States. Therefore, the preparation of a Federalism Assessment is not necessary.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et seq.*), Federal agencies must obtain approval from the Office of Management and Budget for each collection of information they conduct, sponsor, or require through regulations. The DOT has determined that this action does not contain a collection of information requirement for the purposes of the PRA.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4, 109 Stat. 48, March 22, 1995) requires Federal agencies to assess the effects of certain regulatory actions on State, local, and tribal governments, and the private sector. The UMRA requires a written statement of economic and regulatory alternatives for proposed and final rules that contain Federal mandates. A ''Federal mandate'' is a new or additional enforceable duty, imposed on any State, local, or tribal Government, or the private sector. If any Federal mandate causes those entities to spend, in aggregate, $143.1 million or more in any one year (adjusted for inflation), an UMRA analysis is required. This rule would not impose Federal mandates on any State, local, or tribal governments or the private sector.

List of Subjects in 49 CFR Part 1

Authority delegations (Government agencies); Organization and functions (Government agencies).

Issued in Washington, DC, on January 31, 2014.

Anthony R. Foxx,

Secretary.

In consideration of the foregoing, DOT amends 49 CFR part 1 as follows:

PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

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

Authority: 49 U.S.C. 322.

■ 2. Amend § 1.74 by adding new paragraphs (o) and (p) to read as follows:

§ 1.74 Delegations to Inspector General.

* * * * *

(o) Administer the Freedom of Information Act, 5 U.S.C. 552, and 49 CFR part 7 (Public Availability of Information) in connection with the records of the Office of the Inspector General.

(p) Administer the Privacy Act, 5 U.S.C. 552a, and 49 CFR part 10 (Maintenance of and Access to Records Pertaining to Individuals) in connection with the records of the Office of the Inspector General.

[FR Doc. 2014–06172 Filed 3–20–14; 8:45 am]

BILLING CODE 4910–62–P

Proposed Rules

Federal Register
Vol. 79, No. 55
Friday, March 21, 2014

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–1059; Directorate Identifier 2013–NE–36–AD]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney Canada Corp. Turboprop Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Pratt & Whitney Canada Corp. (P&WC) PW120, PW121, PW121A, PW124B, PW127, PW127E, PW127F, PW127G, PW127H, and PW127M turboprop engines. This proposed AD was prompted by reports of fuel leaks at the interface between the fuel manifold and the fuel nozzle that resulted in engine fire. This proposed AD would require removal of the O-ring seal from the fuel manifold fitting. We are proposing this AD to prevent in-flight fuel leakage, which could lead to engine fire, damage to the engine, and damage to the airplane.

DATES: We must receive comments on this proposed AD by May 20, 2014.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *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:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

For service information identified in this AD, contact Pratt & Whitney Canada Corp., 1000 Marie-Victorin, Longueuil, Quebec, Canada, J4G 1A1; phone: 800–268–8000; fax: 450–647–2888; Web site: *www.pwc.ca*. You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2013–1059; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the mandatory continuing airworthiness information (MCAI), the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (phone: 800–647–5527) is the same as the Mail address provided in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Kevin Dickert, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7117; fax: 781–238–7199; email: *kevin.dickert@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–1059; Directorate Identifier 2013–NE–36–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of the Web site, anyone can find and read the comments in any of our dockets, including, if provided, the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Discussion

Transport Canada Civil Aviation, which is the aviation authority for Canada, has issued Canada AD CF–2013–29, dated October 4, 2013 (referred to hereinafter as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> There have been reported incidences of fuel leaks at the interface between the flexible fuel manifold and the fuel nozzle. On occasion, these events resulted in an engine fire on PW100 series engine installations. The data indicates that nearly all of the subject manifold fuel leaks were caused by inadequate B-nut torque application during installation, after maintenance work was performed on the fuel nozzle/manifold.
>
> Sealing of the fitting connections between the fuel manifolds and the fuel nozzle adapters is achieved through conical metal-to-metal surface seating. An additional O-ring seal on the fitting was installed to arrest any fuel leak past the conical sealing surfaces. In-service experience has indicated that leakage past the sealing surfaces, as a result of improper torquing during installation of the manifold, may not be immediately evident until the failure of the O-ring seal allows the fuel to leak into the nacelle area.

Removal of the O-ring seal from the fuel manifold fitting is needed to prevent any fuel leak resulting from improper connection or torquing. We are issuing this AD to prevent in-flight fuel leakage, which could lead to engine fire, damage to the engine, and damage to the airplane. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2013–1059.

Relevant Service Information

P&WC has issued Service Bulletin No. PW100–72–21803, Revision No. 4, dated February 8, 2012. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of Canada and is approved for operation in the United States. Pursuant to our bilateral agreement with Canada, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all information provided by Canada and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design. This proposed AD would require removal of the O-ring seal from the fuel manifold fitting to prevent in-flight fuel leakage resulting from improper connection or torquing, thus preventing engine fire, damage to the engine, and damage to the airplane.

Costs of Compliance

We estimate that this proposed AD would affect about 150 engines installed on U.S. airplanes. We also estimate that it would take about 2.5 hours per engine to perform the inspection or replacement required by this proposed AD. The average labor rate is $85 per hour. No parts are required. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $31,875.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

(3) Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction, and

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

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Pratt & Whitney Canada Corp.: Docket No. FAA–2013–1059; Directorate Identifier 2013–NE–36–AD.

(a) Comments Due Date

We must receive comments by May 20, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Pratt & Whitney Canada Corp. (P&WC) PW120, PW121, and PW121A turboprop engines with Post SB21610 configuration; PW124B, PW127, PW127E, PW127F, and PW127H turboprop engines with either Post SB21607 or Post SB21705 configuration, or both; and PW127G and PW127M turboprop engines.

(d) Reason

This AD was prompted by reports of fuel leaks at the interface between the fuel manifold and the fuel nozzle that resulted in engine fire. We are issuing this AD to prevent in-flight fuel leakage, which could lead to engine fire, damage to the engine, and damage to the airplane.

(e) Actions and Compliance

Unless already done, during the next opportunity when the affected subassembly is accessible, but no later than 18 months after the effective date of this AD, remove the O-ring seal from the fuel manifold fitting.

(f) Alternative Methods of Compliance (AMOCs)

The Manager, Engine Certification Office, FAA, may approve AMOCs to this AD. Use the procedures found in 14 CFR 39.19 to make your request.

(g) Related Information

(1) For more information about this AD, contact Kevin Dickert, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7117; fax: 781–238–7199; email: *kevin.dickert@faa.gov*.

(2) Refer to MCAI Transport Canada AD CF–2013–29, dated October 4, 2013, for related information. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2013–1059.

(3) P&WC Service Bulletin PW100–72–21803, Revision No. 4, dated February 8, 2012, pertains to the subject of this AD and can be obtained from Pratt & Whitney Canada, using the contact information in paragraph (g)(4) of this AD.

(4) For service information identified in this AD, contact Pratt & Whitney Canada Corp., 1000 Marie-Victorin Blvd., Longueuil, Quebec, Canada, J4G 1A1; phone: 800–268–8000; fax: 450–647–2888; Web site: *www.pwc.ca*.

(5) You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

Issued in Burlington, Massachusetts, on March 13, 2014.

Colleen M. D'Alessandro,

Assistant Directorate Manager, Engine & Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2014–06163 Filed 3–20–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 2 and 35

[Docket No. PL14–1–000]

Payment of Dividends From Funds Included in Capital Accounts

AGENCY: Federal Energy Regulatory Commission.

ACTION: Proposed policy statement.

SUMMARY: The Commission proposes, as a statement of policy, that section 305(a) of the Federal Power Act (FPA) should be interpreted as not prohibiting the payment of dividends from funds included in capital accounts by any public utility that has a market-based rate tariff on file with the Commission, does not have captive customers, and does not provide transmission or local distribution services. Because the payment of dividends from funds included in capital accounts by such public utilities does not appear to implicate the concerns underlying the enactment of FPA section 305(a), the Commission proposes this policy in order to eliminate a regulatory burden otherwise applicable under FPA section 305(a) to such public utilities.

DATES: Comments on the proposed policy statement are due within May 20, 2014.

FOR FURTHER INFORMATION CONTACT: Eric Olesh (Technical Information), Office of Energy Market Regulation, 888 First Street NE., Washington, DC 20426, (202) 502–6524, *eric.olesh@ferc.gov.* Antonia Frost (Legal Information), Office of General Counsel, 888 First Street NE., Washington, DC 20426, (202) 502–8085, *antonia.frost@ferc.gov.*

SUPPLEMENTARY INFORMATION:

Before Commissioners: Cheryl A. LaFleur, Acting Chairman; Philip D. Moeller, John R. Norris, and Tony Clark.

Proposed Policy Statement

(Issued February 20, 2014)

1. The Commission proposes, as a statement of policy, that section 305(a) of the Federal Power Act (FPA) [1] should be interpreted as not prohibiting the payment of dividends from funds included in capital accounts by any public utility that has a market-based rate tariff on file with the Commission, does not have captive customers, and does not provide transmission or local distribution services. Because the payment of dividends from capital accounts by such public utilities does not appear to implicate the concerns underlying the enactment of FPA section 305(a), the Commission proposes this policy in order to eliminate a regulatory burden otherwise applicable under FPA section 305(a) to such public utilities.

I. Background

A. FPA Section 305(a) and Its Underlying Concerns

2. FPA section 305(a) provides that:

> It shall be unlawful for any officer or director of any public utility . . . to participate in the making or paying of any dividends of such public utility from any funds properly included in capital account.[2]

3. In *Citizens Utils. Co.,* the Commission noted that, at that time, this part of FPA section 305(a) had not yet been interpreted by the Commission or the courts, and that there was no explicit statement in the legislative history discussing the intent behind this provision.[3] The Commission went on to explain, however, that Congress' intent could be gleaned from the practices that led to the passage of the legislation,[4] providing as an example: ''that sources from which cash dividends were paid were not clearly identified and that holding companies had been paying out excessive dividends on the securities of their operating companies. A key concern, thus, was corporate officials raiding corporate coffers for their personal financial benefit.'' [5] Indeed, as the Commission has stated, ''a primary concern underlying section 305(a) of the FPA is to preclude exploitation of a utility by its directors or officers.'' [6] Therefore, the Commission also has stated that it reviews ''certain liquidity and financial matters when considering the potential impact of a transaction on an applicant's financial condition.'' [7]

B. Petitions for Declaratory Order Requesting Relief

4. In cases in which a dividend (cash or otherwise) will be accounted for as a charge to stated, additional, or miscellaneous paid-in capital of a public utility,[8] jurisdictional utilities have developed a practice of filing petitions for declaratory orders in which the petitioner requests the Commission's concurrence that, based upon the facts and circumstances presented, as well as commitments made, the making or paying of a proposed dividend will not implicate the concerns underlying the enactment of FPA section 305(a) and will not violate the prohibition in FPA section 305(a). The majority of these petitions have been filed because of concerns that have arisen in three situations: (1) In cases involving utility mergers or acquisitions in which, due to the application of purchase accounting to the transaction, the retained earnings (i.e., the traditional source of dividends) of the acquired public utility is reclassified for balance sheet purposes as additional paid-in capital, without having any effect on cash otherwise available for paying future dividends; [9] (2) in cases involving the spin-off of a subsidiary or subsidiaries of a public utility, as the result of which, again for balance sheet purposes, the retained earnings of the public utility may be substantially reduced or eliminated, without having any effect on cash otherwise available for paying future dividends; [10] and (3) in cases involving single-asset generating companies with declining capital needs that have experienced a build-up in their equity balances as their assets have been depreciated.[11]

5. In response to petitions for declaratory orders concerning these three situations, and in other situations, the Commission has found that FPA section 305(a) would not be violated when there were adequate protections to address the concerns underlying FPA section 305(a), and it has allowed the public utility to make or pay dividends from funds included in capital accounts.

6. The Commission has used a three-factor analysis, derived from *Citizens,* to determine that a proposed transaction does not implicate the concerns underlying FPA section 305(a), including that: (1) The utility clearly identifies the sources from which the dividends will be paid; (2) the dividends will not be excessive; and (3) the proposed transaction will not have an adverse effect on the value of shareholders' interests.[12] In certain orders granting relief from FPA section 305(a), issued subsequent to *Citizens,* the Commission's determination also was based on commitments by petitioners either to a specific dollar cap on dividends or a limitation on the

[1] 16 U.S.C. 825d(a) (2012).

[2] *Id.*

[3] *Citizens Utils. Co.,* 84 FERC ¶ 61,158, at 61,864 (1998) (*Citizens*).

[4] *Id.* at 61,864–65.

[5] *Id.* at 61,865 (footnotes omitted); *see also Entergy Louisiana Inc.,* 114 FERC ¶ 61,060, at P 12 (2006); *Exelon Corp.,* 109 FERC ¶ 61,172, at P 8 (2004); *ALLETE, Inc.,* 107 FERC ¶ 61,041, at P 10 (2004).

[6] *Niagara Mohawk Holdings, Inc.,* 95 FERC ¶ 61,381, at 62,416, *order denying reh'g,* 96 FERC ¶ 61,144 (2001).

[7] *Exelon Corp.,* 109 FERC ¶ 61,172 at P 8 (footnote omitted) (citing *Niagara Mohawk Holdings, Inc.,* 99 FERC ¶ 61,323, at P 4 (2002)).

[8] *See, e.g.,* Account 201, Common stock issued, and Account 211, Miscellaneous paid-in capital, Part 101 Uniform System of Accounts Prescribed for Public Utilities and Licensees Subject to the Provisions of the Federal Power Act. 18 CFR pt. 101 (2013).

[9] *See, e.g., National Grid plc,* 117 FERC ¶ 61,080, at P 83 (2006), *order denying reh'g,* 122 FERC ¶ 61,096 (2008); *Ameren Corp.,* 131 FERC ¶ 61,240 (2010); *Duke Energy Ohio, Inc.,* 137 FERC ¶ 61,137 (2011).

[10] *See, e.g., Citizens,* 84 FERC ¶ 61,158 (1998); *ITC Holdings Corp.,* 143 FERC ¶ 61,256 (2013).

[11] *See, e.g., Allegheny Generating Co.,* 130 FERC ¶ 61,269 (2010); *System Energy Resources, Inc.,* 140 FERC ¶ 61,184 (2012).

[12] *Citizens,* 84 FERC at 61,865.

amount of the payment of dividends equal to the pre-merger retained earnings balance of the acquired utility, and/or a commitment by the public utility to limit the amount of dividends from paid-in capital so that common equity, as a percentage of total capitalization, is maintained at a minimum level (frequently, a minimum of 30 percent common equity as a percentage of total capitalization).[13]

7. Historically, these petitions for declaratory orders concerning FPA section 305(a) have largely involved requests by utilities that have captive customers.[14] We have found that a proposed transaction would not violate FPA section 305(a) where we have been assured that no exploitation or threat to the financial integrity of the utilities would result from the payment of dividends from capital accounts.[15]

C. May 16, 2013 Petition for Declaratory Order

8. This proposed policy statement is the outgrowth of a May 16, 2013 petition for declaratory order (May 16 Petition)[16] by Exelon Generation Company, LLC (Exelon Generation) and five of its direct and indirect subsidiaries (the Acquired Subsidiaries)[17] (collectively Applicants) requesting that the Commission confirm that FPA section 305(a) was not a bar to the payment of dividends from capital accounts under the limitations and circumstances described in the petition.[18] The relative novelty in this May 16 Petition was that it did not involve utilities that have captive customers.[19] Rather, Applicants stated that Exelon Generation and the Acquired Subsidiaries did not have captive customers; did not provide transmission or local distribution service nor serve as a designated provider of last resort (POLR) for any class of customers; and had electric market-based rate authorizations from the Commission, with the standard waivers and exemptions, including waivers of FPA section 204(a) (with respect to securities issuances)[20] and waiver of the requirement to maintain their books and records in accordance with the Uniform System of Accounts (USofA).[21]

9. In the May 16 Petition, Applicants presented the Commission with two alternative requests:

(1) The Commission could declare that FPA section 305(a) is not a bar to the proposed payment of dividends by the Applicants, and this determination could be based on the traditional *Citizens* three-part analysis, namely, that: (1) The source of the dividends will be clearly identified; (2) the dividends will not be excessive; and (3) the issuance of such dividends will not harm shareholders;[22] or, alternatively,

(2) the Commission could declare that FPA section 305(a) is not a bar to the payment of dividends by the Applicants *and* all current and future public utility subsidiaries of Exelon on new grounds that all of these entities have market-based rate authority, do not have captive customers, do not provide transmission or local distribution service, and do not provide POLR for any class of customers, rather than on the basis of the application of the traditional *Citizens* three-factor analysis.

In support of its latter alternative, Applicants argued that the capital concerns relating to traditional public utilities, which FPA section 305(a) was meant to address, are not present for these kinds of non-traditional public utilities.

10. In response to the May 16 Petition, the Electric Power Supply Association (EPSA)[23] filed comments generally supporting both alternative declarations requested by Applicants, but it also advocated that the Commission grant an even broader FPA section 305(a) determination.[24] EPSA posited that the factors that made the Applicants' petition compelling are broadly applicable to certain classes of public utilities, such as merchant generators and power marketers, which have market-based rate tariffs on file with the Commission, do not have captive customers, and do not provide transmission or local distribution services.[25] EPSA added that, although Applicants proposed that the entities eligible for Applicants' alternative broadly construed declaration include a limitation that they would not serve as a designated POLR, such condition is not necessary where a designated POLR would meet the other three criteria, i.e, would have market-based rate tariffs on file with the Commission, would not have captive customers, and would not provide transmission or local distribution services.[26] Therefore, EPSA urged the Commission to omit the POLR limitation proposed by Applicants in granting the broader relief requested under section 305(a).[27]

11. In support of its request for a broader FPA section 305(a) determination, EPSA argued that, in the case of entities that have market-based rate authority, do not have captive

[13] *See, e.g., Duke Energy Ohio, Inc.,* 137 FERC ¶ 61,137, at P 7 (2011); *National Grid plc,* 117 FERC ¶ 61,080, at P 83 (2006). The Commission also has accepted alternative protections. *See, e.g., Niagara Mohawk Holdings, Inc.,* 99 FERC ¶ 61,323, at PP 12–13 (2002).

[14] The Commission's regulations define ''captive customers'' to mean ''any wholesale or retail electric energy customers served by a franchised public utility under cost-based regulation.'' 18 CFR 35.36(a)(6) (2013). Our use of the term ''captive customers'' in this Proposed Policy Statement is based on this definition.

[15] *See, e.g., National Grid plc,* 117 FERC ¶ 61,080 (2006), *order denying reh'g,* 122 FERC ¶ 61,096 (2008).

[16] While the May 16 Petition arose from a merger transaction and related accounting issues (*see infra* note 18), our Proposed Policy Statement here is not limited in its applicability to transactions involving mergers and their related accounting issues.

[17] The five direct and indirect subsidiaries of Exelon Generation included CER Generation II, LLC, Constellation Mystic Power, LLC, Constellation NewEnergy, Inc., Constellation Power Source Generation, Inc. and Criterion Power Partners, LLC.

[18] The May 16 Petition arose from a merger transaction, and involved factual circumstances familiar to the Commission in the context of FPA section 305(a). Specifically, Applicants explained that the merger between Exelon Corporation (Exelon) and Constellation Energy Group, Inc. (Constellation) was recorded by Exelon under the purchase method of accounting and that Exelon applied ''push-down'' accounting to the Legacy Constellation Subsidiaries (i.e., all of the subsidiaries of Constellation that became direct and indirect subsidiaries of Exelon Generation), including the Acquired Subsidiaries. ''Push-down'' accounting is a method of accounting in which the financial statements of a subsidiary are presented to reflect the costs incurred by the parent company to buy the subsidiary, instead of the subsidiary's historical costs. Accordingly, the purchase costs of the parent company are shown in the subsidiary's statements. As a result of the ''push-down'' accounting adjustments to the Legacy Constellation Subsidiaries at the time of the merger closing, the pre-merger retained earnings balances of the Legacy Constellation Subsidiaries were ''reset to zero'' and reestablished on their books as miscellaneous paid-in capital. In effect, the traditional source of dividends—retained earnings—was eliminated, without, however, having any impact on cash actually available for paying dividends. The purpose of the May 16 Petition was to obtain a Commission determination that FPA section 305(a) does not prohibit: (1) The Acquired Subsidiaries from paying dividends to their parent company, Exelon Generation, from their respective capital accounts in equal measure to the funds that were recorded as retained earnings at the close of the merger; and (2) Exelon Generation from, in turn, paying dividends to its parent company, Exelon Ventures LLC, from its capital accounts to the extent that Exelon Generation has received dividends from any of the Legacy Constellation Subsidiaries paid out of funds recorded as miscellaneous paid-in capital.

[19] However, we note that, in Docket No. EL06–15–000, Exelon Generation and an affiliate previously filed a petition for declaratory order requesting a declaration that FPA section 305(a) was not a bar to the payment of dividends from capital accounts under the limitations and circumstances described in that petition. *Exelon Generation Company, LLC,* 114 FERC ¶ 61,317 (2006).

[20] 16 U.S.C. 824c(a) (2012).

[21] 18 CFR pt. 101 (2013).

[22] *See supra* P 6.

[23] EPSA is the national trade association for competitive power suppliers, including merchant generators and power marketers.

[24] EPSA June 17, 2013 Comments at 1–2.

[25] *Id.* at 2–4.

[26] *Id.* at 2 n.3.

[27] *Id.*

customers, do not provide transmission or local distribution services, the concerns underlying section 305(a) are not present.[28] In such cases, according to EPSA, the distribution of dividends would not have any adverse effect on the financial integrity of any traditional public utility, its customers, or the ability of state commissions to protect public utility customers.[29]

12. In sum, because of the broad applicability of these principles to the competitive power industry as a whole, and in the interest of judicial economy, EPSA requested that the Commission issue a blanket declaratory order finding that FPA section 305(a) does not act as a bar to the payment of dividends from capital accounts by any public utility that has market-based rate authority, does not have captive customers, and does not provide transmission or local distribution services.[30]

13. In their answer, Applicants supported EPSA's request for a broader FPA section 305(a) determination and, therefore, noted their agreement with EPSA's proposal to drop the POLR limitation.[31] As an additional basis for dropping the POLR limitation, Applicants observed that POLR service is a retail electric service and, thus, within the regulatory framework of state utility commissions.[32] Applicants also stated that those public utilities that provide transmission and local distribution services and also serve as a POLR would not be eligible for the alternative broad declaration sought in Applicants' petition in any event because of the limiting condition that such utilities are providing transmission and local distribution services.[33] Further, Applicants asserted that eliminating the POLR limitation would have positive public policy implications because, in such case, non-traditional public utilities would not be discouraged from participating in POLR service due to the FPA section 305(a) limits on the payment of dividends.[34] Accordingly, Applicants stated that they would not object to the Commission's issuance of a blanket declaratory order based on EPSA's proposal.

14. In its September 3, 2013 order[35] on the May 16 Petition, the Commission granted Applicants' primary request for relief, based on the Commission's traditional *Citizens* grounds, since the Commission agreed that the concerns underlying FPA section 305(a) were not present under the limitations and circumstances described in the petition.[36] While it declined to grant the broader relief requested in that proceeding, the Commission also stated that it believed that Applicants and EPSA had made a strong case for a close examination of whether FPA section 305(a) should be interpreted as not prohibiting the payment of dividends from capital accounts by any public utility that has a market-based rate tariff on file with the Commission, does not have captive customers, and does not provide transmission or local distribution services.[37] Accordingly, the Commission stated its intent to open a generic proceeding to consider the broader request for relief, which would provide public notice and an opportunity for a broader range of interested parties to comment.[38]

II. Discussion

15. In this proposed policy statement, we undertake that generic proceeding to consider whether FPA section 305(a) should be interpreted as not prohibiting the payment of dividends from capital accounts by any public utility that has a market-based rate tariff on file with the Commission, does not have captive customers,[39] and does not provide transmission or local distribution services.[40] Because we believe that the payment of dividends from capital accounts by such public utilities does not appear to create the concerns underlying the enactment of FPA section 305(a), we propose this policy in order to eliminate this regulatory burden under FPA section 305(a) for such public utilities.

16. As previously noted, we believe that Applicants and EPSA made a strong case for a close examination of whether FPA section 305(a) should be interpreted as not prohibiting the payment of dividends from capital accounts by any public utility that has a market-based rate tariff on file with the Commission, does not have captive customers, and does not provide transmission or local distribution services. In particular, Applicants argued that, in Order No. 697, the Commission concluded that it was appropriate to apply a different standard of oversight to public utilities that do not have captive customers and do not sell electricity at cost-based rates.[41] In Order No. 697, the Commission found that it was reasonable to continue to grant entities that do not have captive customers and do not sell electricity at cost-based rates: (1) Blanket authorizations under FPA section 204(a) to issue securities; and (2) waivers from the requirement to maintain their books in accordance with the USofA.[42] In essence, Applicants argued that it would be unusual for the Commission to grant a non-traditional public utility (i.e., merchant generators and power marketers) with market-based rate authorization a blanket authorization under FPA section 204(a) to issue securities, as well as a waiver from the requirement to maintain their books in accordance with the USofA, while, at the same time, under FPA section 305(a), limiting the accounts from which that public utility may pay dividends.[43]

17. Under the conditions advocated by Applicants and EPSA, we observe that the eligible public utility: (1) Will have satisfied the Commission's market power analysis to obtain market-based rate authority for its wholesale power sales; (2) will have no captive customers that require protection by the Commission or the state commissions; and (3) will not provide transmission or local distribution services, which are traditional monopoly services subject to Commission and state commission oversight, to customers. Similar to our finding in Order No. 697, it may be appropriate to now apply a different approach to our FPA section 305(a) oversight for those public utilities that meet these three conditions. We note, in

[28] *Id.* at 5–6.

[29] *Id.* at 5.

[30] *Id.* at 2–4.

[31] Applicants' June 20, 2013 Answer at 3. Applicants note that POLR, or default, service is also known by other terms, such as Standard Offer Service or Basic Generation Service. *Id.* at 2 n.3.

[32] *Id.* at 3.

[33] *Id.*

[34] *Id.*

[35] *Exelon Generation Company, LLC,* 144 FERC ¶ 61,181 (2013).

[36] *Id.* PP 20–21.

[37] *Id.* P 22.

[38] *Id.*

[39] *See supra* note 14.

[40] We propose that a public utility that does not provide transmission or local distribution service is a public utility that does not own transmission or local distribution facilities providing these services.

[41] Applicants' May 16, 2013 Petition at 14.

[42] *Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities,* Order No. 697, FERC Stats. & Regs. ¶ 31,252, at PP 984, 999, *clarified,* 121 FERC ¶ 61,260 (2007), *order on reh'g,* Order No. 697–A, FERC Stats. & Regs. ¶ 31,268, *clarified,* 124 FERC ¶ 61,055, *order on reh'g,* Order No. 697–B, FERC Stats. & Regs. ¶ 31,285 (2008), *order on reh'g,* Order No. 697–C, FERC Stats. & Regs. ¶ 31,291 (2009), *order on reh'g,* Order No. 697–D, FERC Stats. & Regs. ¶ 31,305 (2010), *aff'd sub nom. Montana Consumer Counsel* v. *FERC,* 659 F.3d 910 (9th Cir. 2011), cert. denied, 133 S. Ct 26 (2012).

[43] Applicants' May 16, 2013 Petition at 15. Specifically, Applicants asserted that it would be anomalous for the Commission to have previously concluded that it did not need to be concerned about the character and quality of securities by a non-traditional public utility (under FPA section 204(a)) or the manner in which a non-traditional public utility keeps its accounts (under the USofA), and to now conclude that the Commission is concerned about how a non-traditional public utility accounts for dividends paid on its securities (under FPA section 305(a)). *Id.*

this regard, that FPA section 305(a) was promulgated in an era of traditional, vertically-integrated utilities providing monopoly services to captive customers, and Congress wanted to ensure that the distribution of dividends would not have any adverse effect on the financial integrity (and thus the ability to serve) of any such public utility or its customers. Since that time, the electric industry has evolved, and here we propose to oversee differently the payment of dividends by non-traditional utilities, such as merchant generators and power marketers, who have market-based rate authority, do not have captive customers, and do not provide transmission and local distribution services, which, as noted, are monopoly services.

18. For these reasons, we request comment as to whether the Commission should adopt a statement of policy that FPA section 305(a) should be interpreted as not prohibiting the payment of dividends from funds in capital accounts by any public utility that has a market-based rate tariff on file with the Commission, does not have captive customers, and does not provide transmission or local distribution services, because such payment of dividends does not appear to implicate the concerns underlying the enactment of FPA section 305(a) and it is thus appropriate to eliminate this regulatory burden otherwise applicable under FPA section 305(a) to such public utilities.

III. Comment Procedures

19. The Commission invites comments on this proposed policy statement within May 20, 2014.

IV. Document Availability

20. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through the Commission's Home Page (*http://www.ferc.gov*) and in the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street NE., Room 2A, Washington, DC 20426.

21. From the Commission's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

22. User assistance is available for eLibrary and the Commission's Web site during normal business hours from FERC Online Support at 202–502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

By the Commission.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–06162 Filed 3–20–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2014–0110

RIN 1625–AA08

Special Local Regulation; Low Country Splash, Wando River, Cooper River, and Charleston Harbor, Charleston, SC

AGENCY: Coast Guard, DHS.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Coast Guard proposes to issue a special local regulation on the waters of the Wando River, Cooper River, and Charleston Harbor in Charleston, SC during the Low Country Splash in Charleston, SC, on May 24, 2014, from 7 a.m. to 9 a.m. This special local regulation is necessary to ensure the safety of participants, spectators, and the general public during the event. The special local regulation will temporarily restrict vessel traffic in a portion of the Wando River and Charleston Harbor, preventing non-participant vessels from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the Captain of the Port Charleston or a designated representative.

DATES: Comments and related material must be received by the Coast Guard on or before April 4, 2014. Requests for public meetings must be received by the Coast Guard by April 4, 2014.

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

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

(2) *Fax:* 202–493–2251.

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

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

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Chief Warrant Officer Christopher Ruleman, Sector Charleston Office of Waterways Management, Coast Guard; telephone (843) 740–3184, email *Christopher.L.Ruleman@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

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

A. Public Participation and Request for Comments

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

1. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at *http://www.regulations.gov,* or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* type the

docket number USCG–2014–0110 in the ''SEARCH'' box and click ''SEARCH.'' Click on ''Submit a Comment'' on the line associated with this rulemaking.

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

2. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number USCG–2014–0110 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

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

4. Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one on or before 4 April, 2014, using one of the methods specified under **ADDRESSES**. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register.**

B. Basis and Purpose

The legal basis for the rule is the Coast Guard's Authority to establish special local regulations: 33 U.S.C 1233. The purpose of the proposed rule is to ensure safety of life on the navigable water of the United States during the Low Country Splash.

C. Discussion of Proposed Rule

On Saturday, May 24, 2014, from 7 a.m. to 9 a.m. the Low Country Splash is scheduled to take place on the waters of the Wando River, Cooper River, and Charleston Harbor. The race will commence at Daniel Island Pier, transit south in the Wando River, crossing the navigational channel at Hobcaw Point and continue South into Charleston Harbor. The race will finish at Charleston Harbor Resort Marina. The event consists of a large number of swimmers. There will be safety vessels preceding the participating swimmers, and following the last participating swimmers. This event poses significant risks to participants, spectators, and the boating public because of the large number of swimmers and recreational vessels that are expected in the area of the event. The special local regulation is necessary to ensure the safety of participants, spectators, and vessels from the hazards associated with the event.

The special local regulation will designate a temporary regulated area on the Wando River, Cooper River, and Charleston Harbor in Charleston, South Carolina. The special local regulation will be enforced from 7 a.m. until 9 a.m. on May 24, 2014. Persons and vessels may not enter, transit through, anchor in, or remain within the safety zone unless authorized by the Captain of the Port Charleston or a designated representative.

Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the Captain of the Port Charleston by telephone at (843) 740–7050, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted by the Captain of the Port Charleston or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Charleston or a designated representative. The Coast Guard will provide notice of the special local regulation by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

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

The economic impact of this proposed rule is not significant for the following reasons: (1) The special local regulations will be enforced for a maximum of 2 hours for only one day; (2) non-participant persons and vessels may enter, transit through, anchor in, or remain within the regulated area during the enforcement periods if authorized by the Captain of the Port Charleston or a designated representative; (3) vessels not able to enter, transit through, anchor in, or remain within the regulated area without authorization from the Captain of the Port Charleston or a designated representative may operate in the surrounding areas during the enforcement period; and (4) the Coast Guard will provide advance notification of the special local regulation to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners.

2. Impact on Small Entities

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

This proposed rule may affect the following entities, some of which may be small entities: the owner or operators of vessels intending to enter, transit through, anchor in, or remain within the regulated area during the enforcement period. For the reasons discussed in Regulatory Planning and Review section above, this rule will not have a significant economic impact on a substantial number of small entities.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity

and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

3. Assistance for Small Entities

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

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children From Environmental Health Risks

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a special local regulation issued in conjunction with a regatta or marine parade. This proposed rule is categorically excluded from further review under paragraph 34(h) of Figure 2–1 of the Commandant Instruction. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 100

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

Authority: 33 U.S.C. 1233.

■ 2. Add a temporary § 100.35T07–0110 to read as follows:

§ 100.35T07–0110 Special Local Regulation; Low Country Splash, Wando River, Cooper River, and Charleston Harbor, Charleston, SC.

(a) *Regulated Area.* The following regulated area is established as a special local regulation. All waters within a moving zone, beginning at Daniel Island Pier in approximate position 32°51′20″ N, 079°54′06″ W, South along the coast of Daniel Island, across the Wando River to Hobcaw Yacht Club, in approximate position 32°49′20″ N, 079°53′49″ W, South along the coast of Mt. Pleasant, S.C., to Charleston Harbor Resort Marina, in approximate position 32°47′20″ N, 079°54′39″ W. There will be a temporary Channel Closer from approximately 0730 a.m. to 0815 a.m. on May 24, 2014 between Wando River Terminal Buoy 3 (LLNR 3305), and Wando River Terminal Buoy 5 (LLNR 3315). The zone will at all times extend 75 yards both in front of the lead safety vessel preceding the first race participants; 75 yards behind the safety vessel trailing the last race participants; and at all times extending 100 yards on either side of participating race and safety vessels. Information regarding the identity of the lead safety vessel and the last safety vessel will be provided 2 days prior to the race via broadcast notice to mariners and marine safety information bulletins.

(b) *Definition.* The term ''designated representative'' means Coast Guard

Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port Charleston in the enforcement of the regulated areas.

(c) *Regulations.* (1) All persons and vessels, except those participating in the Low Country Splash or serving as safety vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area. Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the Captain of the Port Charleston by telephone at (843) 740–7050, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted by the Captain of the Port Charleston or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Charleston or a designated representative.

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

(d) *Enforcement Date.* This rule will be enforced from 7 a.m. to 9 a.m. May 24, 2014.

Dated: March 4, 2014.

R.R. Rodriguez,

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

[FR Doc. 2014–06268 Filed 3–20–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2014–0089]

RIN 1625–AA08

Special Local Regulation; Stuart Sailfish Regatta, Indian River; Stuart, FL

AGENCY: Coast Guard, DHS.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Coast Guard proposes to establish a special local regulation on the Indian River located northeast of Ernest F. Lyons Bridge and south of Joes Cove, in Stuart, Florida during the Stuart Sailfish Regatta, a series of high-speed boat races. The Stuart Sailfish Regatta will take place from May 16 through May 18, 2014. Approximately 120 high-speed power boats will be participating in the event. It is anticipated that at least 100 spectator vessels will be present during the event. This special local regulation is necessary for the safety of race participants, participant vessels, spectators and the general public during the event. The special local regulation will establish the following three areas: (1) A race area, where all persons and vessels, except those participating in the high-speed boat races, are prohibited from entering, transiting through, anchoring in, or remaining within; (2) a buffer zone around the race area, where all persons and vessels, except those persons and vessels enforcing the buffer zone, or authorized participants or vessels transiting to the race area, are prohibited from entering, transiting through, anchoring in, or remaining within; and (3) a spectator area, where all persons are prohibited from entering the water or swimming in the designated area.

DATES: Comments and related material must be received by the Coast Guard on or before April 21, 2014. Requests for public meetings must be received by the Coast Guard on or before April 21, 2014.

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

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

(2) *Fax:* 202–493–2251.

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

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

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

SUPPLEMENTARY INFORMATION:

Table of Acronyms

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

A. Public Participation and Request for Comments

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

1. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at *http://www.regulations.gov*, or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov*, type the docket number (USCG–2014–0089) in the ''SEARCH'' box and click ''SEARCH.'' Click on ''Submit a Comment'' on the line associated with this rulemaking.

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

2. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov*, type the

docket number (USCG–2014–0089) in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

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

4. Public Meeting

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

B. Regulatory History and Information

Previously, a temporary special local regulation regarding this marine event was published in the Code of Federal Regulations at 33 CFR 100 (see 78 FR 18475). No final rule has been published in regards to this marine event. The proposed special local regulation is not new in its entirety, but merely reflects updates to certain details of the event.

C. Basis and Purpose

The legal basis for the rule is the Coast Guard's authority to establish special local regulations: 33 U.S.C. 1233.

The purpose of the rule is to provide for the safety of life on the navigable waters of the United States during the Stuart Sailfish Regatta.

D. Discussion of Proposed Rule

From May 16 through May 18, 2014, Stuart Sailfish Regatta, Inc. will be hosting the Stuart Sailfish Regatta, a series of high-speed boat races. The races will be held on the Indian River located northeast of Ernest F. Lyons Bridge and south of Joes Cove, in Stuart, Florida. Approximately 120 high-speed power boats will be participating in the event. It is anticipated that at least 100 spectator vessels will be present during the event.

The proposed rule will establish a special local regulation that will encompass certain navigable waters of the Indian River located northeast of Ernest F. Lyons Bridge and south of Joes Cove, in Stuart, Florida. The special local regulation will be enforced daily from 8 a.m. until 5 p.m. from May 16 through May 18, 2014. The special local regulation will consist of the following three areas: (1) A race area, where all persons and vessels, except those participating in the high-speed boat races, are prohibited from entering, transiting through, anchoring in, or remaining within; (2) a buffer zone around the race area, where all persons and vessels, except those persons and vessels enforcing the buffer zone, or authorized participants or vessels transiting to the race area, are prohibited from entering, transiting through, anchoring in, or remaining within; and (3) a spectator area, where all persons are prohibited from entering the water or swimming in the designated area.

Persons and vessels may request authorization to enter the special local regulated area by contacting the Captain of the Port Miami by telephone at 305–535–4472, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the special local regulated area is granted by the Captain of the Port Miami or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Miami or a designated representative.

E. Regulatory Analyses

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

1. Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. The economic impact of this proposed rule is not significant for the following reasons: (1) This special local regulation will be enforced for nine hours a day for three days; (2) non-participant persons and vessels may enter, transit through, anchor in, or remain within the regulated area during their respective enforcement periods if authorized by the Captain of the Port Miami or a designated representative; (3) non-participant persons and vessels not able to enter, transit through, anchor in, or remain within the regulated areas without authorization from the Captain of the Port Miami or a designated representative may operate in the surrounding areas during the respective enforcement periods; and (4) the Coast Guard will provide advance notification of the special local regulation to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities. This rule may affect the following entities, some of which may be small entities: The owners or operators of vessels intending to enter, transit through, anchor in, or remain within any of the regulated area during the respective enforcement periods. For the reasons discussed in the Regulatory Planning and Review section above, this rule will not have a significant economic impact on a substantial number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

3. Assistance for Small Entities

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

compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children From Environmental Health Risks

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f). The Coast Guard previously completed an environmental assessment for this event and regulation in 2012, as well as conducted a supplemental environmental assessment in 2013. The event and regulation for the 2012 and 2013 occurrences are similar in all aspects to this year's event and regulation; therefore the same environmental assessment and supplemental environmental assessment are being referenced for this year's event and regulation. The environmental assessment is available in the docket folder for USCG–2012–0150 at *www.regulations.gov*. This proposed rule involves establishing a special local regulation that will be enforced from 8 a.m. until 5 p.m. daily May 16 through 18 2014. This rule is categorically excluded from further review under paragraph 34(h) of Figure 2–1 of the Commandant Instruction. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 100

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

Authority: 33 U.S.C. 1233.

■ 2. Add a temporary 33 CFR 100.35T07–0089 to read as follows:

§ 100.35T07–0089 Special Local Regulation; Stuart Sailfish Regatta, Indian River, Stuart, FL.

(a) *Regulated Areas.* The following regulated area is established as a special local regulation. All coordinates are North American Datum 1983.

(1) Race Area. All waters of Indian River located northeast of Ernest Lyons Bridge and south of Joes Cove that are encompassed within the following points: Starting at Point 1 in position 27°12′46″ N, 80°11′09″ W; thence southeast to Point 2 in position 27°12′41″ N, 80°11′08″ W; thence southwest to Point 3 in position 27°12′37″ N, 80°11′11″ W; thence southwest to Point 4 in position 27°12′33″ N, 80°11′18″ W; thence southwest to Point 5 in position 27°12′31″ N, 80°11′23″ W; thence west to Point 6 in position 27°12′31″ N, 80°11′27″ W; thence northwest to Point 7 in position 27°12′33″ N, 80°11′31″ W; thence northwest to Point 8 in position 27°12′38″ N, 80°11′32″ W; thence northeast to Point 9 in position 27°12′42″ N, 80°11′30″ W; thence northeast to Point 10 in position 27°12′46″ N, 80°11′26″ W; thence northeast to Point 11 in position 27°12′48″ N, 80°11′20″ W; thence east to Point 12 in position 27°12′48″ N, 80°11′15″ W; thence southeast back to origin. All persons and vessels, except those persons and vessels participating in the high-speed boat races, are prohibited from entering, transiting through, anchoring in, or remaining within the race area.

(2) Buffer Zone. All waters of Indian River located northeast of Ernest Lyons

Bridge and south of Joes Cove that are encompassed within the following points: Starting at Point 1 in position 27°12′47″ N, 80°11′43″ W; thence southeast to Point 2 in position 27°12′22″ N, 80°11′28″ W; thence northeast to Point 3 in position 27°12′35″ N, 80°11′00″ W; thence northwest to Point 4 in position 27°12′47″ N, 80°11′04″ W; thence northeast to Point 5 in position 27°13′05″ N, 80°11′01″ W; thence southeast back to origin. All persons and vessels, except those persons and vessels enforcing the buffer zone, or authorized participants or vessels transiting to the race area, are prohibited from entering, transiting through, anchoring in, or remaining within the buffer zone.

(3) Spectator Area. All waters of Indian River located northeast of Ernest Lyons Bridge and south of Joes Cove that are encompassed within the following points: Starting at Point 1 in position 27°12′48″ N, 80°11′43″ W; thence northeast to Point 2 in position 27°12′55″ N, 80°11′26″ W; thence southeast to Point 3 in position 27°12′52″ N, 80°11′24″ W; thence southwest to Point 4 in position 27°12′40″ N, 80°11′39″ W; thence northwest back to origin. All persons are prohibited from entering the water or swimming in the spectator area.

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

(c) *Regulations.*

(1) Non-participant persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the race area and/or buffer zone of the special local regulated area unless authorized by Captain of the Port Miami or a designated representative. All persons are prohibited from entering the water or swimming in the spectator area. Non-participant persons and vessels may request authorization to enter, transit through, anchor in, or remain within the race area and/or buffer zone of the special local regulated area by contacting the Captain of the Port Miami by telephone at 305–535–4472, or a designated representative via VHF radio on channel 16. If authorization is granted by the Captain of the Port Miami or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Miami or a designated representative.

(2) The Coast Guard will provide notice of the special local regulation by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

(d) *Effective Date.* This rule will be enforced from 8 a.m. until 5 p.m. daily from May 16, 2014 through May 18, 2014.

Dated: March 5, 2014.

A.J. Gould,

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

[FR Doc. 2014–06272 Filed 3–20–14; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2012–0814 & EPA–R04–OAR–2012–0692; FRL–9908–43–Region 4]

Approval and Promulgation of Implementation Plans; Florida; Infrastructure Requirement (Visibility) for the 1997 and 2006 PM, and 2008 8-Hour Ozone NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On April 18, 2008, and September 23, 2009, the Environmental Protection Agency (EPA) received state implementation plan (SIP) submissions from the State of Florida, through the Florida Department of Environmental Protection (FDEP), regarding the infrastructure elements for the 1997 annual Fine Particulate Matter ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS) and 2006 24-hour $PM_{2.5}$ NAAQS, respectively. On October 31, 2012, EPA received a SIP submission from FDEP regarding the infrastructure elements for the 2008 8-hour ozone NAAQS. Additionally, on October 22, 2013, FDEP supplemented the three aforementioned infrastructure SIP submissions. EPA is proposing to approve the elements of these infrastructure SIP submissions, as supplemented on October 22, 2013, as they relate to the protection of visibility in other states.

DATES: Written comments must be received on or before April 21, 2014.

ADDRESSES: Submit your comments related to the 1997 and 2006 $PM_{2.5}$ SIP submissions, identified by Docket ID No. EPA–R04–OAR–2012–0814, and related to the 2008 8-hour ozone SIP submission, identified by Docket ID No. EPA–R04–OAR–2012–0692, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *E-Mail: R4-RDS-epa.gov.*
3. *Fax:* (404) 562–9019.
4. *Mail:* ''EPA–R04–OAR–2012–0814,'' for the 1997 and 2006 $PM_{2.5}$ SIP submissions or ''EPA–R04–OAR–2012–0692'' for the 2008 8-hour ozone SIP submission, 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.
5. *Hand Delivery or Courier:* Lynorae Benjamin, Chief, 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. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's 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–R04–OAR–2012–0814 for the 1997 and 2006 $PM_{2.5}$ SIP submissions, or to Docket ID No. EPA–R04–OAR–2012–0692 for the 2008 8-hour ozone SIP submission. 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 through *www.regulations.gov* or email, information that you consider to be CBI or otherwise protected. 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 information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

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 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: Sean Lakeman or Nacosta 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. Mr. Lakeman can be reached via electronic mail at *lakeman.sean@epa.gov* or via telephone at (404) 562–9043. Ms. Ward can be reached via electronic mail at *ward.nacosta@epa.gov* or via telephone at (404) 562–9140.

SUPPLEMENTARY INFORMATION:

I. Background

On July 18, 1997 (62 FR 38652), EPA established an annual $PM_{2.5}$ NAAQS of 15.0 micrograms per cubic meter (μg/m^3), based on a 3-year average of annual mean $PM_{2.5}$ concentrations, and a 24-hour NAAQS of 65 μg/m^3. On October 17, 2006 (71 FR 61144), EPA retained the 1997 annual $PM_{2.5}$ NAAQS at 15.0 μg/m^3 based on a 3-year average of annual mean $PM_{2.5}$ concentrations and promulgated a new 24-hour NAAQS of 35 μg/m^3 based on a 3-year average of the 98th percentile of 24-hour concentrations. On March 27, 2008 (77 FR 16436), EPA revised the 8-hour ozone NAAQS to 0.075 parts per million. By statute, SIPs meeting the requirements of sections 110(a)(1) and (2) are to be submitted by states within three years after promulgation of a new or revised NAAQS. Sections 110(a)(1) and (2) require states to address basic SIP requirements, including emissions inventories, monitoring, and modeling to assure attainment and maintenance of the NAAQS.

EPA received Florida's infrastructure submissions on April 18, 2008, for the 1997 annual $PM_{2.5}$ NAAQS; on September 23, 2009, for the 2006 24-hour $PM_{2.5}$ NAAQS; and on October 31, 2012, for the 2008 8-hour ozone NAAQS. The rulemaking proposed through today's action only addresses section 110(a)(2)(D)(i) visibility requirements. Florida supplemented its September 23, 2009, submission on April 18, 2011, to further address the required elements of sections 110(a)(2)(D)(i) and 110(a)(2)(D)(ii), and it supplemented the April 18, 2008, September 23, 2009, and October 31, 2012, submissions on October 23, 2013, stating that Florida has met the section 110(a)(2)(D)(ii) visibility requirements for the 1997 annual $PM_{2.5}$ NAAQS, 2006 24-hour $PM_{2.5}$ NAAQS, and 2008 8-hour ozone NAAQS through EPA's approval of the State's regional haze SIP submission and incorporation of all relevant portions of Florida's visibility program into the State's implementation plan.

II. What are states required to address under Section 110(a)(2)(D)?

Section 110(a)(2)(D) has two components: 110(a)(2)(D)(i) and 110(a)(2)(D)(ii). Section 110(a)(2)(D)(i) includes four distinct elements, commonly referred to as ''prongs,'' that must be addressed in infrastructure SIP submissions. The first two prongs, which are codified in section 110(a)(2)(D)(i)(I), prohibit any source or other type of emissions activity in one state from contributing significantly to nonattainment of the NAAQS in another state (''prong 1'') and from interfering with maintenance of the NAAQS in another state (''prong 2''). The third and fourth prongs, which are codified in section 110(a)(2)(D)(i)(II), prohibit emissions activity in one state from interfering with measures required to prevent significant deterioration of air quality in another state (''prong 3'') and to protect visibility in another state (''prong 4''). Section 110(a)(2)(D)(ii) requires SIPs to include provisions ensuring compliance with sections 115 and 126 of the Act relating to interstate and international pollution abatement.

Today's proposed rulemaking pertains only to requirements related to prong 4 of section 110(a)(2)(D)(i)(II), which as previously described, requires that the SIP contain adequate provisions to protect visibility in other states. EPA's rationale for today's proposal that Florida is meeting these prong 4 requirements for purposes of the 1997 annual $PM_{2.5}$ NAAQS, 2006 24-hour $PM_{2.5}$ NAAQS, and 2008 8-hour ozone NAAQS is provided below.

III. What is EPA's analysis of how Florida addressed the Section 110(a)(2)(D)(i)(II) Visibility Element?

EPA has made the preliminary determination that Florida's infrastructure SIP submissions for the 1997 annual $PM_{2.5}$ NAAQS, 2006 24-hour $PM_{2.5}$ NAAQS, and 2008 8-hour ozone NAAQS meet the requirements of prong 4 of section 110(a)(2)(D)(i)(II) because the Agency has approved Florida's regional haze SIP,[1] and Florida has confirmed, through its October 22, 2013, supplement to its SIP submissions, that it has met the prong 4 requirements of section 110(a)(2)(D)(ii) for these NAAQS through EPA's approval of the State's regional haze SIP submission and incorporation of all relevant portions of Florida's visibility program into the State's implementation plan. Federal regulations require that a state's regional haze SIP contain a long-term strategy to address regional haze visibility impairment in each Class I area within the state and each Class I area outside the state that may be affected by emissions from the state.[2] A state participating in a regional planning process, such as Florida, must include all measures needed to achieve its apportionment of emissions reduction obligations agreed upon through that process.[3] EPA's approval of Florida's regional haze SIP therefore ensures that emissions from Florida are not interfering with measures to protect visibility in other states, satisfying the requirements of prong 4 of section 110(a)(2)(D)(i)(II) for the 1997 and 2006

[1] 77 FR 71111 (November 29, 2012); 78 FR 53250 (August 29, 2013).

[2] 40 CFR 51.308(d).

[3] *See, e.g.,* 40 CFR 51.308(d)(3)(ii). Florida participated in the Visibility Improvement State and Tribal Association of the Southeast (VISTAS) regional planning organization, a collaborative effort of state governments, tribal governments, and various Federal agencies established to initiate and coordinate activities associated with the management of regional haze, visibility, and other air quality issues in the Southeastern United States. Member state and tribal governments included: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, West Virginia, and the Eastern Band of the Cherokee Indians.

$PM_{2.5}$ NAAQS and for the 2008 8-hour ozone NAAQS.[4]

IV. Proposed Action

As described above, EPA is proposing to approve the infrastructure SIP submissions from FDEP as addressing prong 4 of section 110(a)(2)(D)(i)(II) of the CAA for the 1997 and 2006 $PM_{2.5}$ NAAQS and for the 2008 8-hour ozone NAAQS. Specifically, EPA is proposing to approve FDEP's April 18, 2008, and September 23, 2009, submissions for the 1997 and 2006 $PM_{2.5}$ NAAQS, and FDEP's October 31, 2011, submission for the 2008 8-hour ozone NAAQS, as supplemented on October 22, 2013, as they pertain to prong 4 of section 110(a)(2)(D)(i)(II) because they are consistent with section 110 of the CAA.

V. 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. *See* 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 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, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: March 10, 2014.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 2014–06225 Filed 3–20–14; 8:45 am]

BILLING CODE 6560–50–P

[4] *See* EPA's September 13, 2013, guidance document entitled ''Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2)'' at pp. 32–35, available at: *http://www.epa.gov/air/urbanair/sipstatus/infrastructure.html; see also* memorandum from William T. Harnett, Director, Air Quality Policy Division, Office of Air Quality Planning and Standards, to Regional Air Division Directors, entitled ''Guidance on SIP Elements Required Under Sections 110(1)(1) and (2) for the 2006 24-Hour Fine Particle ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS)'' (September 25, 2009) at pp. 5–6, available at: *http://www.epa.gov/ttn/caaa/t1/memoranda/20090925_harnett_pm25_sip_110a12.pdf.*

Notices

Federal Register
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Friday, March 21, 2014

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Notice of Request for Extension or Renewal of a Currently Approved Information Collection

AGENCY: U.S. Department of Agriculture

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the intention of the Office of the Assistant Secretary for Civil Rights to request a renewal to a currently approved information collection for race, ethnicity, and gender along with comments.

DATES: Comments on this notice must be received by May 20, 2014 to be assured of consideration.

Additional Information or Comments: Contact Anna G. Stroman, Chief, Policy Division, by mail at Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW., Washington, DC 20250.

SUPPLEMENTARY INFORMATION:

Title: Race, Ethnicity and Gender Data Collection.

OMB Number: OMB No. 0505–0019 *Expiration.*

Date of Approval: March 31, 2014.

Type of Request: Extension and renewal of a currently approved information collection.

Abstract: This data collection is necessary to implement Sections 14006 and 14007 of the Food, Conservation, and Energy Act of 2008, 7 U.S.C. 8701 (hereafter, referred to as the 2008 Farm Bill). Section 14006 of the 2008 Farm Bill establishes a requirement for the Department of Agriculture (USDA) to annually compile application and participation rate data regarding socially disadvantaged farmers or ranchers by computing for each program of the USDA that serves agriculture producers and landowners (a) raw numbers of applicants and participants by race, ethnicity, and gender subject to appropriate privacy protections, as determined by the Secretary; and (b) the application and participation rate, by race, ethnicity and gender, as a percentage of the total participation rate of all agricultural producers and landowners for each county and State in the United States. Pursuant to the authority in Section 14006, the agencies of USDA are to collect the data and transmit it to the Secretary of Agriculture. Section 14007 requires USDA to use the data collected in the conduct of oversight and evaluation of civil rights compliance.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 2 minutes per response.

Respondents: Producers, applicants.

Estimated Number of Respondents: 3,520,000.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 105,600.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent by any of the following methods:

Email: Send comments to *Anna.Stroman(a),ascr.usda.gov.*

Mail: Anna G. Stroman, Chief, Policy Division, Office of the Assistant Secretary for Civil Rights, U.S. Department of Agriculture, 1400 Independence Ave. SW., Washington, DC 20250.

There were no comments received from the previous notice requesting comments.

All comments received will be available for public inspection during regular business hours at the same address.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will become a matter of public record.

Joe Leonard, Jr.,

Assistant Secretary for Civil Rights.

[FR Doc. 2014–06196 Filed 3–20–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Information Collection: Emergency Conservation Program (ECP) and Biomass Crop Assistance Program (BCAP)

AGENCY: Farm Service Agency, USDA.

ACTION: Notice; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Farm Service Agency (FSA) is seeking comments from all interested individuals and organizations on an extension with a revision of currently approved information collection associated with the Emergency Conservation Program (ECP) and Biomass Crop Assistance Program (BCAP). This information is collected in support of, respectively, Section 401 of the Agricultural Credit Act of 1978, as amended, and Section 9011 of the Farm Security and Rural Investment Act of 2002, as amended.

DATES: We will consider comments that we receive by May 20, 2014.

ADDRESSES: We invite you to submit comments on this Notice. In your comment, include the volume, date, and page number of this issue of the **Federal Register**. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to: *www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Martin Bomar, ECP Program Manager, Conservation and Environmental Programs Division, Farm Service Agency, United States Department of Agriculture, STOP 0513, 1400 Independence Avenue SW., Washington, DC 20250–0513.

You may also send comments to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs,

Office of Management and Budget, Washington, DC 20503. Copies of the information collection may be requested by contacting Martin Bomar.

FOR FURTHER INFORMATION CONTACT: Martin Bomar, ECP Program Manager, (202) 205–4537.

SUPPLEMENTARY INFORMATION:

Description of Information Collection

Title: Emergency Conservation Program and Biomass Crop Assistance Program.

OMB Control Number: 0560–0082.

Expiration Date: June 30, 2014.

Type of Request: Extension and Revision of a Currently Approved Information Collection.

Abstract: The collection of this information is necessary to allow FSA to: (1) Effectively administer the regulations under ECP, which are set forth at 7 CFR part 701 so as to provide funding and technical assistance for farmers and ranchers to restore farmland damaged by natural disasters and for emergency water conservation measures in severe droughts; and, (2) effectively administer the regulations for BCAP, which are set forth at 7 CFR part 1450, so as to provide financial assistance to owners and operators of agricultural and non-industrial private forest land who wish to establish, produce, and deliver biomass feedstocks. This information is collected in support of, respectively, Section 401 of the Agricultural Credit Act of 1978 (Pub. L. 95–334), as amended, and Section 9011 of the Farm Security and Rural Investment Act of 2002 (Pub. L. 107–171), as amended. The revision of the currently approved information collection is necessitated by the replacement of form series AD–245 and its associated computing process, with the new form series FSA–848 and a web-based computing environment.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .3 hours (19 minutes) per response. The average travel time, which is included in the total annual burden, is estimated to be 1 hour per respondent.

Respondents: Owners, operators and other eligible agricultural producers on eligible farmland.

Number of Respondents: 258,990.

Estimated Number of Responses per Respondent: 1.

Estimated Annual Number of Respondents: 492,265.

Estimated Total Annual Burden Hours: 93,953.

We are requesting comments on all aspects of this information collection to help us to:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of FSA, including whether the information will have practical utility;

(2) Evaluate the accuracy of FSA's estimate of burden 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.

All responses to this notice, including names and addresses when provided, will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Signed on March 14, 2014.

Juan M. Garcia,

Administrator, Farm Service Agency.

[FR Doc. 2014–06192 Filed 3–20–14; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Forest Service

Lyon-Mineral Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Lyon-Mineral Resource Advisory Committee (RAC) will meet in Yerington, Nevada. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with the title II of the Act. The meeting is open to the public. The purpose of the meeting is to discuss project proposals for 2014.

DATES: The meeting will be held on May 14, 2014 at 1:00 p.m.

All RAC meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held at Lyon County Administration Complex, Commissioners Meeting Room, 27 South Main Street, Yerington, Nevada. Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. 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 Bridgeport Ranger District. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Jeff Ulrich, RAC Designated Federal Officer, by phone at 760–932–7070 or via email at *jlulrich@fs.fed.us.*

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. Please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accomodation for access to the facility or procedings by contacting the person listed above.

SUPPLEMENTARY INFORMATION: Additional RAC information, including the meeting agenda and the meeting summary/minutes can be found at the following Web site: *https://fsplaces.fs.fed.us/fsfiles/unit/wo/secure_rural_schools.nsf/RAC/4466FCBB4113C725882575BD006D265B?OpenDocument.* The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by April 25, 2014 to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Jeff Ulrich, RAC Designated Federal Officer, Bridgeport Ranger District, HC 62 Box 1000, Bridgeport, CA 93517, or by email to *jlulrich@fs.fed.us* or via facsimile to 760–932–5899.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or proceedings by contacting the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: March 14, 2014.

William A. Dunkelberger,

Humboldt-Toiyabe National Forest Supervisor.

[FR Doc. 2014–06173 Filed 3–20–14; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Tuolumne-Mariposa Counties Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of Meeting.

SUMMARY: The Tuolumne-Mariposa Counties Resource Advisory Committee will meet on May 5, 2014, May 19, 2014, and June 2, 2014), at the City of Sonora Fire Department, in Sonora, California. The purpose of the meeting is to reprioritize projects due to expected decreases to Title II RAC funding.

DATES: The meeting on May 5, 2014, from 12:00 p.m. to 3:00 p.m. is to review project proposals. The meeting on May 19, 2013, from 9:00 a.m. to 3:00 p.m. is for RAC to hear presentations by project proponents. The meeting on June 2, 2013, from 12:00 p.m. to 4:00 p.m. is to vote on which projects to recommend for funding.

ADDRESSES: The meetings will all be held at the City of Sonora Fire Department located at 201 South Shepherd Street, in Sonora, California (CA 95370).

FOR FURTHER INFORMATION CONTACT: Beth Martinez, Committee Coordinator, USDA, Stanislaus National Forest, 19777 Greenley Road, Sonora, CA 95370, (209) 532–3671, extension 320; email *bethmartinez@fs.fed.us*.

SUPPLEMENTARY INFORMATION: All meetings are open to the public and the public is invited to comment on meeting proceedings.

Dated: March 12, 2014.

Scott Tangenberg,

Acting Forest Supervisor.

[FR Doc. 2014–06164 Filed 3–20–14; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Land Between the Lakes Advisory Board

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Land Between The Lakes Advisory Board (Board) will meet in Cadiz, Kentucky. The Board is established consistent with the Federal Advisory Committee Act of 1972 (5 U.S.C. App 2). Additional information concerning the Board can be found by visiting the Board's Web site at: *http://www.lbl.org/LRMPadvisoryboard.html.*

DATES: The meeting will be held Thursday, April 17, 2014 from 9:00 a.m. to 4:00 p.m. CST.

ADDRESSES: The meeting will be held at the Lake Barkley State Resort Park, 3500 State Park Road, Cadiz, Kentucky. Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION.** All comments, including names and addresses when provided, are placed in the record and available for public inspection and copying. The public may inspect comments received at the Land Between The Lakes National Recreation Area. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Linda L. Taylor, Advisory Board Liaison, Land Between The Lakes National Recreation Area, 100 Van Morgan Drive, Golden Pond, Kentucky 42211 or by phone at 270–924–2002.

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: The purpose of the meeting is to focus on existing Evnironmental Education programs and forest planning with regional school groups. The meeting is open to the public. The Board discussion is limited to Forest Service staff and board members. Individuals wishing to provide written comments should submit by April 10, 2014 in order for copies to be provided to the members for the meeting. Written comments must be sent to Tina Tilley, Area Supervisor, Land Between The Lakes National Recreation Area, 100 Van Morgan Drive, Golden Pond, Kentucky 42211. Board members will review written comments received, and at their request, oral clarification may be requested for a future meeting. Additional comments must be received, in writing on or before May 26, 2014.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or proceedings by contacting the person listed in the section titled *For Further Information Contact.* All reasonable accommodation requests are managed on a case by case basis.

Dated: March 12, 2014.

Tina R. Tilley,

Area Supervisor, Land Between The Lakes.

[FR Doc. 2014–06171 Filed 3–20–14; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Bridger-Teton National Forest; Wyoming; Oil and Gas Leasing in Portions of the Wyoming Range in the Bridger-Teton National Forest

AGENCY: Forest Service, USDA.

ACTION: Corrected notice of intent to prepare a supplemental environmental impact statement to analyze and disclose effects of oil and gas leasing on portions of the Bridger-Teton National Forest previously identified as suitable and available for oil and gas leasing in the Bridger-Teton National Forest Land and Resource Management Plan.

SUMMARY: This notice corrects notices of Intent (NOI) published in the **Federal Register** on February 4, 2008 (73 FR, No. 23, pages 6453–6454) and March 28, 2008 (73 FR, No. 61 pages 16621–16622), to prepare a supplemental environmental impact statement (SEIS) to analyze and disclose environmental effects relative to oil and gas leasing on portions of the forest previously identified as suitable and available for oil and gas leasing in the Bridger-Teton National Forest Land and Resource Management Plan. The Forest Service is providing this corrected NOI because it intends to prepare a new draft and final SEIS in place of the draft and final SEIS released in February 2010 and January 2011, respectively. Extensive public involvement efforts were conducted with the 2008 scoping period. Because extensive public comments covering the range of relevant issues for the analysis were received in the 2008 scoping period and in the comment period on the 2010 Draft SEIS, an additional scoping period is not being conducted. Scoping comments and comments on the Draft SEIS previously submitted will be considered in preparation of the new SEIS. Scoping for a supplemental environmental impact statement is not required [40 CFR 1502.9(c)(4)]. The public will have another opportunity to comment on this project when the new Draft SEIS is released. A draft Record of Decision will be released with the new Final SEIS, and will be subject to the pre-decisional (objection) administrative review process [36 CFR 218]. Individuals and entities who submitted timely, specific written comments

regarding this project during the 2008 scoping period and the 2010 Draft SEIS comment period and those who submit comments on the new 2014 Draft SEIS will be eligible to file objections.

DATES: The new Draft SEIS is expected to be published in October 2014. The estimated completion date for the Final SEIS is May 2015.

FOR FURTHER INFORMATION CONTACT: Rob Hoelscher, Big Piney District Ranger, Bridger-Teton National Forest, 10418 South Highway 189, P.O. Box 218, Big Piney, WY 83113.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: A previous revised NOI was published in the **Federal Register** on March 28, 2008 (73 FR, No. 61, pages 16621–16622) with the title: *Revised Notice of Intent To Prepare a Supplemental Environmental Impact Statement To Analyze and Disclose New Information Relative to Oil and Gas Leasing of 44,720 Acres on the Big Piney Ranger District;* its purpose was to extend the scoping comment period. This corrected notice updates the original February 2008 NOI and the revised NOI of March 2008 to announce the intent to prepare a new draft and final SEIS. In February 2010, a Draft SEIS was released for public review and comment (75 FR, No. 24, page 6027). In January 2011, a Final SEIS (76 FR, No. 29, page 7844) and Record of Decision were released. In May 2011, the Record of Decision was withdrawn to allow for additional analyses considering updated information. The Forest Service is preparing a new SEIS and Record of Decision to replace previous analysis efforts regarding these specific parcels with the most up-to-date information and scientific analysis. Since the previous notices were published, the Forest Service received notice from the Bureau of Land Management that some parcels are no longer being considered for leasing (updated project map available at *http://www.fs.usda.gov/projects/btnf/landmanagement/projects*). The title of this analysis is revised to reflect this updated information. The purpose and need, proposed action, and known possible alternatives are clarified as noted below.

Purpose and Need for Action

The purpose for offering parcels and subsequent issuance of leases is to meet the Bridger-Teton National Forest Land and Resource Management Plan Objective 1.1(d) to ''provide leasable, locatable, and salable mineral exploration and development opportunities;'' and Goal 4.4 ''other resources are protected during exploration and development of subsurface resources;'' the Bureau of Land Management Pinedale Resource Management Plan mineral management goal to ''provide opportunities for mineral extraction and energy exploration and development to provide resources to meet national and local needs while avoiding or otherwise mitigating significant impacts on other resource objectives;'' and the Bureau of Land Management Kemmerer Resource Management Plan Goal MR: 1 to ''provide opportunities for exploration and developing mineral resources on available public lands.'' The offering for sale and subsequent issuance of oil and gas leases is needed to respond to interest in obtaining future opportunities for exploration and development of mineral resources under specific parcels. The Mineral Leasing Act of 1920, as amended, requires the Forest Service and Bureau of Land Management to respond to all leasing interests.

Proposed Action

The Forest Service and Bureau of Land Management propose to offer specific parcels for oil and gas leasing on the eastern slope of the Wyoming Range, along the western portion of Sublette County in areas identified as suitable and available for oil and gas leasing within the Bridger-Teton National Forest and not prohibited by the Wyoming Range Legacy Act. Issuance of leases would follow, incorporating the appropriate standard stipulations for forest management areas 12, 23, 24, 25, 26, and 32, and the applicable Bureau of Land Management resource management plan.

Preliminary Issues

Following are the preliminary issues developed from previous public involvement efforts and considered during alternative development:

Potential impacts from post-leasing exploration and/or development could have cumulative effects on the social and economic well-being of the local communities and quality of life for residents.

Potential impacts from post-leasing exploration and/or development could change the backcountry recreation setting, detracting from the quality of recreation opportunities in the area.

Not issuing leases for these specific parcels or applying additional constraints to leases could prevent effective recovery of energy resources in the area.

Potential impacts from post-leasing exploration and/or development could affect groundwater quality and quantity in the area.

Potential impacts from post-leasing exploration and/or development could occur to terrestrial wildlife including threatened, endangered, sensitive, management indicator species' habitats and populations; large game; and trophy game species.

Potential impacts from post-leasing exploration and/or development could occur to water quality and could affect habitat for fish and other special status aquatic species.

Potential impacts from post-leasing exploration and/or development could occur to rare plant species habitats including sensitive and management indicator species' habitats and populations.

Potential impacts from post-leasing exploration and/or development could impact air quality and air quality-related values, with emphasis on cumulative effects because of extensive development in the Pinedale area and previously monitored exceedances of National Ambient Air Quality Standards for ozone in Sublette County.

Potential impacts from post-leasing exploration and/or development could affect permitted livestock grazing, cultural resources, and visual resources.

Possible Alternatives

Alternative 1: No action/No leasing. The Forest Service would object to the Bureau of Land Management offering for sale leases within these specific parcels.

Alternative 2: Proposed Action, Implement Forest Plan Leasing Availability Decision. The Forest Service would not object to the Bureau of Land Management offering for sale leases within these specific parcels. The Bureau of Land Management would offer for sale leases with existing standard lease stipulations as required by the Bridger-Teton National Forest Land and Resource Management Plan. The Bureau of Land Management may add additional stipulations in accordance with the applicable resource management plan. Future oil and gas exploration and development would occur in accordance with procedures established under an approved Federal oil and gas unit agreement.

Alternative 3: Implement Forest Plan Leasing Availability Decision, Meet Site-Specific Management Goals. The Forest Service would not object to the Bureau of Land Management offering for sale leases within these specific parcels, with site-specific and management area

standard lease stipulations required by the Bridger-Teton National Forest Land and Resource Management Plan. For example, a combination of No Surface Occupancy, Timing Limitation, Controlled Surface Use, Conditional No Surface Occupancy, and the Jackson Hole Area Oil and Gas Lease stipulations may be used depending upon resource issues. The Bureau of Land Management may add additional stipulations in accordance with the applicable resource management plan. Future oil and gas exploration and development would occur in accordance with procedures established under an approved Federal oil and gas unit agreement.

Alternative 4: Implement Forest Plan Leasing Availability Decision with No Surface Occupancy. The Forest Service would not object to the Bureau of Land Management offering for sale leases within these specific parcels with a No Surface Occupancy stipulation. Future oil and gas exploration and development would occur in accordance with procedures established under an approved Federal oil and gas unit agreement.

Lead and Cooperating Agencies

The Forest Service is the lead agency. The Bureau of Land Management, the State of Wyoming, and Sublette County are cooperating agencies.

Responsible Official

This corrected NOI updates the responsible officials for this project. The Forest Service responsible official for this decision [36 CFR 228.102(d)] is Clinton D. Kyhl, Bridger-Teton National Forest Supervisor, Bridger-Teton National Forest, 340 N. Cache (P.O. Box 1888), Jackson, Wyoming 83001. The Bureau of Land Management responsible official for final decision (43 CFR 3101.7) relative to the issuance or disposition of the leases and lease parcels is Donald A. Simpson, State Director, Bureau of Land Management—Wyoming State Office, 5353 Yellowstone (P.O. Box 1828), Cheyenne, Wyoming 82009.

Nature of Decision To Be Made

The decision to be made is whether the Forest Service objects or does not object to the Bureau of Land Management offering for sale oil and gas leases on these specific parcels, and under what terms and conditions. This decision will supersede prior Forest Service decisions regarding oil and gas leasing on these specific parcels. Based upon the Forest Service's decision, the Bureau of Land Management will decide which parcels would be offered for lease with appropriate stipulations, which parcels will be deferred, which parcels are not available for leasing, and which parcels are canceled.

Dated: March 12, 2014.

Clinton D. Kyhl,

Forest Supervisor, Bridger-Teton National Forest.

[FR Doc. 2014–05891 Filed 3–20–14; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket B–58–2013]

Foreign-Trade Zone (FTZ) 83—Huntsville, Alabama; Application for Production Authority, Toray Carbon Fibers America, Inc., Opening of Comment Period on New Evidence

An application has been submitted to the Foreign-Trade Zones Board by the Huntsville-Madison County Airport Authority, grantee of FTZ 83, requesting production authority on behalf of Toray Carbon Fibers America, Inc. (Toray), located in Decatur, Alabama. Toray is requesting authority to produce polyacrylonitrile (PAN) fiber and PAN-based carbon fiber under FTZ procedures. The Toray facility produces carbon fiber from both proprietary, domestically-produced PAN and foreign-sourced PAN.

On March 7, 2014, Toray made a submission to the FTZ Board that included new evidence in response to the examiner's preliminary recommendation for approval with a restriction requiring re-export of all foreign-status PAN. Public comment is invited on Toray's new evidence through April 21, 2014. Rebuttal comments may be submitted during the subsequent 15-day period, until May 5, 2014. Submissions shall be addressed to the FTZ Board's Executive Secretary at: Foreign-Trade Zones Board, U.S. Department of Commerce, Room 21013, 1401 Constitution Ave. NW., Washington, DC 20230.

A copy of Toray's March 7, 2014, submission will be available for public inspection at the address above, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz*.

For further information, contact Diane Finver at *Diane.Finver@trade.gov* or (202) 482–1367.

Dated: March 14, 2014.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2014–06252 Filed 3–20–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–22–2014]

Foreign-Trade Zone 26—Atlanta, Georgia, Application for Additional Production Authority, PBR, Inc. d/b/a SKAPS Industries, (Non-Woven Geotextiles), Athens, Georgia

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the Georgia Foreign-Trade Zone, Inc., grantee of FTZ 26, requesting additional production authority on behalf of PBR, Inc. d/b/a SKAPS Industries (SKAPS), located in Athens, Georgia. The application conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.23) was docketed on March 12, 2014.

The SKAPS facilities (185 employees) are located within Site 29 of FTZ 26. The facilities are used for the production of non-woven geotextile fabric using polypropylene staple fiber. SKAPS requested FTZ production authority in a notification proceeding (15 CFR 400.22) in 2013 (see, 78 FR 54234, 9–3–2013; Doc. B–37–2013). After an initial review, the requested production authority was limited to a five-year initial term, as well as a restriction that precludes inverted tariff benefits on foreign polypropylene staple fiber used in production of non-woven geotextile fabrics for U.S. consumption.

The pending application seeks to remove the above-mentioned restriction by requesting authority for SKAPS to choose the duty rate during customs entry procedures that applies to non-woven geotextile fabrics (duty rate—free) for the polypropylene staple fiber (duty rate—4.3%) sourced from abroad. The request indicates that the savings related to inverted tariff benefits on polypropylene staple fiber used in production for the U.S. market would further improve the facilities' international competitiveness.

In accordance with the FTZ Board's regulations, Pierre Duy of the FTZ Staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the FTZ Board.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is May 20, 2014. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to May 20, 2014.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz*.

For further information, contact Pierre Duy at *Pierre.Duy@trade.gov* (202) 482–1378.

Dated: March 12, 2014.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2014–06248 Filed 3–20–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1931]

Grant of Authority; Establishment of a Foreign-Trade Zone Under the Alternative Site Framework; Ontario County, New York

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones Act provides for ''. . . the establishment . . . of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs and Border Protection ports of entry;

Whereas, the Board adopted the alternative site framework (ASF) (15 CFR Sec. 400.2(c)) as an option for the establishment or reorganization of zones;

Whereas, Ontario County, New York (the Grantee) has made application to the Board (B–80–2013, docketed 8/22/2013), requesting the establishment of a foreign-trade zone under the ASF with a service area of Ontario, Wayne, Seneca, Yates, Steuben, and Livingston Counties, New York, adjacent to the Rochester Customs and Border Protection port of entry, with an initial proposed subzone under the ASF;

Whereas, notice inviting public comment has been given in the **Federal Register** (78 FR 53127, August 28, 2013) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations would be satisfied if the ASF service area is limited to Ontario, Wayne, Seneca, Yates, and Livingston Counties;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing a foreign-trade zone, designated on the records of the Board as Foreign-Trade Zone No. 289, with a service area of Ontario, Wayne, Seneca, Yates, and Livingston Counties, and subject to the FTZ Act and the Board's regulations, including Section 400.13, to the Board's standard 2,000-acre activation limit, and to a three-year ASF sunset provision for subzones that would terminate authority for Subzone 289A if no foreign-status merchandise is admitted for a *bona fide* customs purpose within three years from the date of approval.

Signed at Washington, DC, this 7th day of March 2014.

Penny Pritzker,

Secretary of Commerce, Chairman and Executive Officer, Foreign-Trade Zones Board.

[FR Doc. 2014–06242 Filed 3–20–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD194

Mid-Atlantic Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Mid-Atlantic Fishery Management Council (Council) will hold public meetings.

DATES: The meetings will be held Tuesday, April 8, 2014 through Thursday, April 10, 2014. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meetings will be held at the Montauk Yacht Club, 32 Star Island Road, Montauk, NY 11954; telephone: (631) 668–3100.

Council address: Mid-Atlantic Fishery Management Council, 800 N. State St., Suite 201, Dover, DE 19901; telephone: (302) 674–2331.

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D. Executive Director, Mid-Atlantic Fishery Management Council; telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION:

Tuesday, April 8, 2014

1 p.m. until 2 p.m.—The River Herring and Shad Committee will meet.
2 p.m. until 5 p.m.—The Executive Committee will meet.

Wednesday, April 9, 2014

9 a.m.—The Council will convene.
9 a.m. until 10 a.m.—A Stock Assessment Workshop/Stock Assessment Review Committee (SAW/SARC) presentation will be held.
10 a.m. until 12 noon—Tilefish Management Measures for 2015–17 will be finalized.
1 p.m. until 2 p.m.—There will be an update on Scup Gear-Restricted Area (GRA) Framework 8.
2 p.m. until 3:30 p.m.—There will be an update on the Deep Sea Coral Amendment.
3:30 p.m. until 4:30 p.m.—There will be a Marine Recreational Information Program (MRIP) presentation.
4:30 p.m. until 5 p.m.—There will be a presentation on establishing a baseline of spatial fishing revenue along the Atlantic coast.
5 p.m. until 6 p.m.—A listening session will be held.

Thursday, April 10, 2014

8:30 a.m.—The Council will convene.
8:30 a.m. until 9:30 a.m.—The Standardized Bycatch Reporting Methodology Amendment (SBRM) will be discussed.
9:30 a.m. until 10 a.m.—An Industry-Funded Monitoring Omnibus Amendment briefing will be held.
10 a.m. until 1 p.m.—The Council will hold its regular Business Session to receive Organizational Reports, the New England and South Atlantic Liaison Reports, the Executive Director's Report, the Science Report, Committee Reports, and conduct any continuing and/or new business.

Agenda items by day for the Council's Committees and the Council itself are:

On Tuesday, April 8—The River Herring and Shad Committee will review and approve terms of reference and scope of work for the Committee. The Executive Committee will develop a Council position on Magnuson-Stevens reauthorization issues.

On Wednesday, April 9—The Council will hear a SAW/SARC 58 Summary to include butterfish, tilefish, and northern shrimp. The Council will review and adopt the Scientific and Statistical Committee's and the Tilefish

Monitoring Committee's recommendations for 2015–17 harvest levels and management measures. The Council will review and discuss comments received by Advisors on modifications to the Scup GRA Framework 8. The Council will review a progress update on the initial analysis of current alternatives on the Deep Sea Coral Amendment. The Council will receive an update on the overall implementation of MRIP, review results of the for-hire reporting pilot projects, and discuss possible changes to the for-hire reporting. The Council will receive a presentation entitled Who Fishes There—Establishing a baseline of spatial fishing revenue along the Atlantic coast. This presentation will show the Council a GIS application that will identify areas important to specific fishing communities, species, gears, and sessions that will establish a baseline of commercial fishing effort for the Bureau of Ocean Energy Management. The discussion during the Listening Session will be on the United Kingdom experience related to managing navigational hazards for fishermen during wind farm construction and data collection by fishing vessels concerning commercial species behavior in and around wind farms.

On Thursday, April 10—The Council will review and approve the SBRM Amendment. The Council will receive a briefing on the cost associated with the current observer program for the Industry-Funded Monitoring Omnibus Amendment. The Council will hold its regular Business Session to receive Organizational Reports, the New England and South Atlantic Council Liaison Reports, the Executive Director's Report, Science Report, Committee Reports, and conduct any continuing and/or new business, which will include the RSA permitting cycle, Surfclam/Ocean Quahog industry concerns regarding the NEFMC Habitat Amendment and Council planning for the Summer Flounder Amendment.

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 these meetings. 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 meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to M. Jan Saunders (302) 526–5251 at least 5 days prior to the meeting date.

Dated: March 18, 2014.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2014–06169 Filed 3–20–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD197

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council (Council) will hold a public information meeting to gather fishery industry perspectives on the likely impacts of alternative spiny dogfish trip limits.

DATES: The meeting will be Tuesday, April 8, 2014 beginning at 7 p.m. and will conclude by 9 p.m.

ADDRESSES: The meeting will be held via webinar with a listening station also available at the Council address below. Webinar link: *http://mafmc.adobeconnect.com/dogfish/*.

Council Address: Mid-Atlantic Fishery Management Council, 800 N. State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331.

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, 800 N. State Street, Suite 201, Dover, DE 19901; telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The Mid-Atlantic Fishery Management Council (MAFMC) has formally recommended maintaining existing (4,000 lb) federal spiny dogfish trip limits for the 2014 and 2015 fishing years, while the New England Fishery Management Council has recommended eliminating federal trip limits for this fishery. In order to fully inform the impact analysis being prepared by the MAFMC and its development of comments during pending rulemaking, the MAFMC is holding a webinar to collect industry perspectives on the likely operational and economic impacts of existing and alternative spiny dogfish trip limit options for this fishery.

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 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 sign language interpretation or other auxiliary aids should be directed to M. Jan Saunders at the Mid-Atlantic Council Office, (302) 526–5251, at least 5 days prior to the meeting date.

Dated: March 18, 2014.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2014–06216 Filed 3–20–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD196

Western Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Western Pacific Fishery Management Council (Council) will hold meetings of its and Hawaii and Pacific Remote Island Area Archipelago Plan Team (HI–PRIA PT), the Joint Hawaii, Marianas and American Samoa Archipelago Plan Team (Joint PT) and the Council's Fishery Data Collection and Research Committee—Technical Committee (FDCRC–TC). The HI–PRIA PT and Joint PT will review the status of the nearshore fisheries, data collection issues and improvements, improvements in the Annual Catch Limit (ACL) specifications, and developing Cooperative Research Priorities and conduct a workshop to

estimate fishing mortality (F) and natural mortality (M) using length-based estimates. The FDCRC–TC will develop a regional strategic plan for fishery research and data collection improvements and review the Council's 5 year research priorities.

DATES: The HI–PRIA PT meeting will be held on April 8, 2014, the Joint PT meeting on April 9–11, 2014, and the FDCRC–TC meeting April 14–16, 2014. For specific times and agendas, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The HI–PRIA PT, Joint PT and FDCRC–TC meetings will be held at the Council office, 1164 Bishop Street, Suite 1400, Honolulu, HI 96813; telephone: (808) 522–8220.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone: (808) 522–8220.

SUPPLEMENTARY INFORMATION: Public comment periods will be provided. The order in which agenda items are addressed may change. The meetings will run as late as necessary to complete scheduled business.

Schedule and Agenda for the HI–PRIA PT Meeting

April 8, 2014—8:30 a.m.–5 p.m.

1. Welcome and Introductions
2. Approval of the Agenda & Assignment of Rapporteurs
3. Status of Fishery Monitoring Programs and Research Projects
   - A. Coral Reef Fisheries
     - i. Re-estimation of coral reef recreational fishery catches
     - ii. Estimation of F and M of reef fishes: insight on stock status
     - iii. Kumu stock assessment
     - iv. Uhu stock assessment
     - v. Proposed size limits on reef fish in Maui
   - B. Crustacean Fisheries
   - C. Precious Coral Fisheries
   - D. Bottomfish Fisheries
     - i. Main Hawaiian Island ACL Monitoring
     - ii. Amendment to the Hawaii Fishery Ecosystem Plan
     - iii. Bottomfish Working Group report: Research Component
   - E. Discussions
4. Discussion on the Council's 5-Year Program Plan
5. General Discussions
6. Other Business
7. Public Comment
8. Hawaii and PRIA Archipelago Plan Team recommendations

Schedule and Agenda for the Joint PT Meeting

April 9, 2014—8:30 a.m.–5 p.m.

1. Welcome and Introductions
2. Approval of Draft Agenda & Assignment of Rapporteurs
3. Report on previous Plan Team recommendations and Council actions
4. Archipelagic Fisheries Report
   - A. American Samoa Fisheries Module
     - i. Coral reef and crustacean fisheries
     - ii. Bottomfish fisheries
     - iii. Report on fishery independent surveys
     - iv. FADs and sportfishing report
     - v. Territory projects, initiatives and activities
     - vi. Informing creel survey adjustment factors using village-based fisheries profiles
   - B. Developing non-commercial catch report in the annual reports
   - C. Discussions
   - D. Public Comment
5. Administrative and regulatory updates
   - A. American Samoa
   - B. Northern Mariana Islands
   - C. Hawaii
   - D. Discussions
   - E. Public Comment
6. Annual Catch Limits
   - A. Evaluating 2013 catches relative to its respective ACLs (Action Item)
   - B. ACLs from the biomass-augmented catch-MSY approach
   - C. Discussions
   - D. Public Comment
7. Improving Fishery Data Collection in the Western Pacific Region
   - A. Stock assessment framework for coral reef fishes in Guam
   - B. Fishery Data Collection in the Guam Naval Base
   - C. Report on expansion validation and variance estimation project
   - D. Fishery Data Collection and Research Committee
   - E. Project status in the omnibus proposal for fishery data collection improvements
   - F. Discussions
   - G. Public Comment
8. Update Cooperative Research and developing priorities
9. General Discussions
10. Archipelagic Plan Team Recommendations
11. Other Business

Work Group Session on Generating Fishing and Natural Mortalities for Reef Fishes From Fishery Dependent and Independent Length Estimates

April 10, 2014–8:30 a.m.–5 p.m.

14. Workshop Introduction
    - A. Overview
    - B. Workshop Format
    - C. Workshop Product
15. Estimating F and M for reef fishes in Hawaii
16. Review of the length-based stock assessment approach
17. Refresher on estimating mortality rates using a length-based mortality model in Excel
18. Report out on data inventory
19. Task assignment per jurisdiction
20. Breakout session 1
    - A. Data compilation
    - B. Data standardization session
    - C. Literature search and drafting the report sections
21. Breakout session 2
    - A. Model runs
    - B. Result validation
    - C. Literature search and drafting the report sections

April 11, 2014—8:30 a.m.–5 p.m.

22. Continuation of breakout session 2
    - A. Model runs
    - B. Result validation
23. Report out on preliminary results
24. Result interpretations and report generation
25. General discussion and result consensus

Schedule and Agenda for the FDCRC–TC Meeting

April 14, 2014—8:30 a.m.–5 p.m.

1. Welcome remarks
2. Introduction
3. Understand all perspectives: analysis of strength, weakness, opportunities, and threats (SWOT)
   - A. American Samoa
   - B. Guam
   - C. Commonwealth of Northern Mariana Islands
   - D. Hawaii
   - E. Pacific Island Fisheries Science Center
   - F. University of Hawaii and University of Guam
   - G. Western Pacific Regional Fishery Management Council
4. Develop vision statements
5. Craft a common vision statement
6. Develop outcomes to accomplish vision

April 15, 2014—8:30 a.m.–5 p.m.

7. Review day 1
8. Discuss fisheries research and management
9. Add projects to the plan
10. Develop metrics to measure projects
11. Develop the plan
12. Next steps

April 16, 2014—8:30 a.m.–5 p.m.

13. Review of day 2
14. Develop the implementation plan
15. Develop the timeline and assignment of agency responsibilities
16. Review and update of the Council's 5 year research priorities

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 these meetings. 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

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, (808) 522–8220 (voice) or (808) 522–8226 (fax), at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 18, 2014.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2014–06170 Filed 3–20–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD187

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Applications for six new scientific research permits, one permit modification, and three research permit renewals.

SUMMARY: Notice is hereby given that NMFS has received 10 scientific research permit application requests relating to Pacific salmon, sturgeon, rockfish, and eulachon. The proposed research is intended to increase knowledge of species listed under the Endangered Species Act (ESA) and to help guide management and conservation efforts. The applications may be viewed online at: *https://apps.nmfs.noaa.gov/preview/preview_open_for_comment.cfm.*

DATES: Comments or requests for a public hearing on the applications must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific standard time on April 21, 2014.

ADDRESSES: Written comments on the applications should be sent to the Protected Resources Division, NMFS, 1201 NE Lloyd Blvd., Suite 1100, Portland, OR 97232–1274. Comments may also be sent via fax to 503–230–5441 or by email to *nmfs.nwr.apps@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Rob Clapp, Portland, OR (ph.: 503–231–2314), Fax: 503–230–5441, email: *Robert.Clapp@noaa.gov*). Permit application instructions are available from the address above, or online at *https://apps.nmfs.noaa.gov.*

SUPPLEMENTARY INFORMATION:

Species Covered in This Notice

The following listed species are covered in this notice:

Chinook salmon (*Oncorhynchus tshawytscha*): threatened California Coastal (CC); threatened Central Valley spring-run (CVS); threatened Lower Columbia River (LCR); threatened Puget Sound (PS); endangered Sacramento River winter-run (SRW); threatened Snake River (SR) fall-run; threatened SR spring/summer-run (spr/sum); endangered Upper Columbia River (UCR) spring-run; threatened Upper Willamette River (UWR).

Steelhead (*O. mykiss*): threatened UCR; threatened SR; threatened middle Columbia River (MCR); threatened California Central Valley (CCV); threatened LCR; threatened Northern California (NC); threatened PS; threatened South-Central California Coast (SCC); threatened UWR.

Sockeye salmon (*O. nerka*): endangered SR.

Chum salmon (*O. keta*): threatened Columbia River (CR).

Coho salmon (*O. kisutch*): threatened LCR; threatened Oregon Coast (OC); threatened Southern Oregon/Northern California Coast (SONCC).

Eulachon (*Thaleichthys pacificus*): threatened southern DPS (S. eulachon).

Authority

Scientific research permits are issued in accordance with section 10(a)(1)(A) of the ESA (16 U.S.C. 1531 *et. seq*) and regulations governing listed fish and wildlife permits (50 CFR 222–226). NMFS issues permits based on findings that such permits: (1) Are applied for in good faith; (2) if granted and exercised, would not operate to the disadvantage of the listed species that are the subject of the permit; and (3) are consistent with the purposes and policy of section 2 of the ESA. The authority to take listed species is subject to conditions set forth in the permits.

Anyone requesting a hearing on an application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (see ADDRESSES). Such hearings are held at the discretion of the Assistant Administrator for Fisheries, NMFS.

Applications Received

Permit 1127–4R

The Shoshone-Bannock Tribes are seeking to renew their permit to annually take listed SR Chinook salmon and steelhead while conducting research designed to (1) monitor adult and juvenile fish in key upper Snake River subbasin watersheds, (2) assess the utility of hatchery Chinook salmon in increasing natural populations in the Salmon and Clearwater Rivers, and (3) evaluate the genetic and ecological impacts of hatchery Chinook salmon on natural populations. The fish would primarily benefit from the research in two ways. First, the research would broadly be used to help guide restoration and recovery efforts throughout the Snake River basin. Second, and more specifically, the research would be used to determine how hatchery supplementation can be used as a tool for salmon recovery. The researchers would use screw traps, weirs, and electrofishing to capture the listed fish. Once captured, the fish would undergo various sampling, tagging, and handling regimes; they would then be allowed to recover and released. Some tissue samples would be taken from adult fish carcasses, and the researchers would conduct some snorkeling surveys and redd counts. In all cases, trained crews would conduct the operations, no adult salmonids would be electrofished, and all activities would take place in the Salmon River subbasin. The researchers are not proposing to kill any of the fish they capture, but some may die as an unintended result of the research.

Permit 1410–8R

The Northwest Fisheries Science Center (NWFSC) is requesting to renew permit 1410 for a period of five years. The permit would authorize the NWFSC to annually take adult and juvenile fish from all of the listed salmon, steelhead, and eulachon in this notice while conducting a study of the Columbia River plume and the surrounding ocean environment. The purpose of the research is to: (a) Determine the abundance, distribution, growth and condition of juvenile Columbia River

salmonids in the plume and characterize the area's physical and biological features as they relate to salmonid survival; (b) determine the impact that predators and food supply have on survival among juvenile Columbia River Chinook and coho salmon as they migrate through the Columbia River estuary and plume; and (c) synthesize the early ocean ecology of juvenile Columbia River salmonids, test mechanisms that control salmonid growth and survival, and produce ecological indices that forecast salmonid survival. The research would benefit listed fish by providing data that would help managers understand the linkages between salmonid abundance, distribution, growth, genetics, and health, and the effects of disease, parasites, diet, and predation in the estuarine and ocean environment. Ultimately, the NWFSC uses simulation models, statistical analyses of climate, ocean and biological time series data and indices to produce improved river and salmon management.

Listed fish would be captured in surface trawling and purse seining operations; most of them would then be handled and. Some juvenile fish would be intentionally killed for endocrine assessment, stock identification, pathogen prevalence and intensity, otolith and stomach content analysis, and histopathological attributes. The researchers are not proposing to kill any adult fish, but some may die as an unintentional result of the research activities.

Permit 14457–5R

The Columbia River Estuary Study Task Force (CREST) is requesting to renew permit 14457 for a period of one year. CREST is requesting authorization to annually take juvenile OC coho salmon while conducting research designed to evaluate habitat restoration efforts in Ecola Creek, Oregon. Specific objectives are to (1) determine species composition and relative abundance; (2) determine prey use by juvenile salmon; and (3) determine prey availability. The researchers would capture juvenile fish using trap nets. Juvenile coho would be anesthetized, identified, measured, weighed, checked for tags and marks, and released. Some of the captured salmonids would also be sampled for stomach contents. The researchers are not proposing to kill any of the fish they capture, but a small number may die as an unintended result of the activities.

Permit 15207–3M

The Amnis Opes Institute (AOI) has requested to modify permit 15207 to include additional survey sites and to extend the duration of the permit by two years. The permit would authorized AOI to annually take juvenile and adult UCR Chinook salmon, SR fall-run Chinook salmon, SR spr/sum Chinook salmon, LCR Chinook salmon, UWR Chinook salmon, PS Chinook salmon, CR chum salmon, HCS chum salmon, LCR coho salmon, OC coho salmon, SONCC coho salmon, SR sockeye salmon, UCR steelhead, SR steelhead, MCR steelhead, LCR steelhead, UWR steelhead, and PS steelhead while conducting research designed to help managers assess the condition of rivers and streams in Idaho, Oregon, and Washington. The AOI researchers may capture fish (using raft-mounted electrofishing equipment), sample them for biological information, and release them. Stunned fish would be recovered in a soft mesh dipnet and placed in a livewell. The research locations would be randomly determined and the researchers would alternate sides of the river every other transect, stopping every 5 channel widths to process the fish. After being captured, each fish would be removed from the livewell and the researchers would record species and length and note the presence of any anomalies. The fish would then be returned to the water alive and listed species would be processed first. If adult fish are seen, the electrofishing equipment would immediately be turned off, the fish would be allowed to swim away, and the researches would move to another location before resuming the research. The researchers are not proposing to kill any of the fish they capture, but a small number may die as an unintended result of the activities.

Permit 18562

The AOI has requested a permit to collect environmental samples in rivers and streams in the state of Washington while conducting Washington's Status and Trends Monitoring for Watershed Health and Salmon Recovery—a statewide habitat and biological monitoring program. The permit would authorize AOI to take juvenile and adult UCR Chinook salmon, SR fall-run Chinook salmon, SR spr/sum Chinook salmon, LCR Chinook salmon, PS Chinook salmon, CR chum salmon, HCS chum salmon, LCR coho salmon, UCR steelhead, SR steelhead, MCR steelhead, LCR steelhead, and PS steelhead. The goal of status and trends monitoring is to provide quantitative, statistically valid estimates of habitat and water quality that are important for policy and management decisions. The AOI would monitor seven status and trends regions statewide on a four-year cycle. The information gathered by this research would benefit listed salmonids by helping resource managers evaluate the effectiveness of habitat restoration efforts and monitor aquatic species status and trends. The AOI would capture fish using boat electrofishing equipment; the listed fish would be enumerated, measured, and released immediately. At no time would adults be electrofished. If any adults are seen during the electrofishing operation, the equipment would immediately be turned off and the fish would be allowed to escape. If an adult is seen, the researchers would move the operation. And in no case would the electrofishing take place where fish are actively spawning. The researchers are not proposing to kill any of the fish they capture, but a small number may die as an unintended result of the activities.

Permit 18620

The Confederated Tribes of the Warm Springs Reservation of Oregon (CTWSRO) is seeking a five-year permit to study Pacific lamprey population status and migration patterns in Fifteen Mile Creek and Hood River and their tributaries in Oregon. The researchers would capture lamprey by hand—and dipnetting, fyke netting, hoop netting, passive trapping, and electrofishing at very low settings. Adult lamprey would be measured, tagged with PIT tags or, in some cases, radio tags, allowed to recover, and released. Any salmonids that are netted would be immediately released or, if necessary, they would be transferred to temporary holding in a water-filled bucket and observed until they recover and released at that point. If any salmonids are affected by the electrofishing, the equipment would be turned off and the fish would be allowed to recover and swim away without being captured. The research would benefit salmon by greatly increasing knowledge regarding an important indicator of watershed health—Pacific lamprey. That knowledge, in turn, would be used to help managers monitor watershed health and plan habitat restoration projects in the areas where the research would take place. The researchers are not proposing to kill any of the fish they capture, but a small number may die as an unintended consequence of the work.

Permit 18568

The Confederated Tribes of Siletz Indians (CTSI) are seeking a one-year permit that would allow them to take adult and juvenile threatened OC coho while conducting research designed to examine the genetics of Chinook salmon and steelhead in the Siletz River, Oregon. The researchers would capture

the fish using beach seines and electrofishing equipment. All listed fish would immediately be released or, if necessary, allowed to recover in aerated buckets from the effects of being captured and then released. The research would benefit listed coho by generating genetics information that would be used to help inform a Siletz River watershed assessment, a limiting factors analysis for salmonids in the River, and future habitat restoration projects. The researchers are not proposing to kill any of the fish they capture, but a small number may die as an unintended result of the research activities.

Permit 18569

The CTSI are seeking a one-year permit that would allow them to take juvenile threatened OC coho and adult eulachon while conducting research designed to examine the effectiveness of estuarine restoration actions in the Tillamook and Siuslaw estuaries in Oregon. The researchers would use seines and hoop traps to capture the target fish and underwater cameras to observe them. The underwater videography would be used specifically to reduce the amount of fish handling. If fewer than 25 fish are captured in a net or trap, then they would typically be counted while still in the net's bag and released without being removed from the water. If more than 25 fish are captured, the fish would be placed in five-gallon containers with mesh sides that allow water from the channel to pass through them. Fewer than 40 fish would be kept in each container. Multiple (or larger) containers would be used if more fish are present. Some fish (25 salmonids per month) would be anesthetized and measured and they would then be allowed to recover and released. The researchers are not proposing to kill any of the fish they capture, but a small may die as an unintended result of the activities.

Permit 18579

The Ochoco National Forest (NF) is seeking a five-year permit that would allow them to take juvenile MCR steelhead while conducting several monitoring activities in the Deschutes and John Day River watersheds in Oregon. The researchers would use backpack electrofishing units to capture the fish in several small tributaries to the two rivers. The fish would then be identified, measured, and immediately released; no anesthesia would be used. The research would benefit listed species by generating information that the Ochoco NF would use to locate and design habitat restoration projects and manage grazing allotments in ways that minimize effects on salmonids. The researchers are not proposing to kill any of the fish they capture, but a few individuals may die as an unintended result of the activities.

Permit 18696

The Idaho Power company is seeking a five-year permit to annually capture juvenile white sturgeon in Lower Granite Reservoir. The researchers would use small-mesh gill net sets to capture the fish. The nets would be fished at times (October and November) and in areas (the bottom of the reservoir) that have purposefully been chosen to have the least possible impact on listed fish. When the nets are pulled to the surface, listed species would immediately be released (including by cutting the net, if necessary) and allowed to return to the reservoir. The research targets a species that is not listed, but the research should benefit listed salmonids by generating information about the habitat conditions in Lower Granite Reservoir and by helping managers develop conservation plans for the species that inhabit it. The researchers are not proposing to kill any of the fish they capture, but a small number of individuals may be killed as an inadvertent result of the activities.

This notice is provided pursuant to section 10(c) of the ESA. NMFS will evaluate the applications, associated documents, and comments submitted to determine whether the applications meet the requirements of section 10(a) of the ESA and Federal regulations. The final permit decisions will not be made until after the end of the 30-day comment period. NMFS will publish notice of its final action in the **Federal Register**.

Dated: March 14, 2014.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2014–06154 Filed 3–20–14; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Addition and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Addition to and deletions from the Procurement List.

SUMMARY: This action adds a service to the Procurement List that will be provided by a nonprofit agency employing persons who are blind or have other severe disabilities, and deletes services from the Procurement List previously provided by such agencies.

DATES: *Effective Date:* 4/21/2014.

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:

Addition

On 1/24/2014 (79 FR 4154–4155), the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed addition to the Procurement List.

After consideration of the material presented to it concerning capability of a qualified nonprofit agency to provide the service and impact of the addition on the current or most recent contractor, the Committee has determined that the service listed below is 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 a small entity other than the small organization that will provide the service to the Government.

2. The action will result in authorizing a small entity to provide the service 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 service proposed for addition to the Procurement List.

End of Certification

Accordingly, the following service is added to the Procurement List:

Service:

Service Type/Location: Grounds Maintenance Service, NSA, Utah Data Center Campus, Camp Williams, 11600 Redwood Road, Bluffdale, UT.

NPA: Community Foundation for the

Disabled, Inc., Salt Lake City, UT.
Contracting Activity: National Security Agency, Fort Meade, MD.

Deletions

On 2/7/2014 (79 FR 7428), the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed deletions from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the services listed below are no longer 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 additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may 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 deleted from the Procurement List.

End of Certification

Accordingly, the following services are deleted from the Procurement List:

Services:

Service Type/Location: Janitorial/Custodial Service, Col Harold Steele USARC, 6482 Aurelia Street, Pittsburgh, PA.
NPA: Life'sWork of Western PA, Pittsburgh, PA.
Contracting Activity: Dept of the Army, W6QM MICC CTR–FT DIX (RC), Fort Dix, NJ.

Service Type/Location: Janitorial/Custodial Service, Major Charles D. Stoops USARC, 215 Center Street, Punxsutawney, PA.
NPA: Unknown.
Contracting Activity: Dept of the Army, W6QM MICC CTR–FT DIX (RC), Fort Dix, NJ.

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2014–06180 Filed 3–20–14; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Intent To Grant an Exclusive Patent License

ACTION: Notice.

SUMMARY: Pursuant to the provisions of Part 404 of Title 37, Code of Federal Regulations, which implements Public Law 96–517, as amended; the Department of the Air Force announces its intention to grant Compunetix, Inc., a corporation of the State of Pennsylvania, having a place of business at 2420 Mosside Boulevard, Monroeville, Pennsylvania, an exclusive license limited to the field of ground and shipboard voice communications applications and systems in any right, title and interest the Air Force has in: U.S. Patent No. 7,391,877, issued June 24, 2008, entitled ''Spatial Processor For Enhanced Performance in Multi-Talker Speech Displays,'' by Douglas S. Brungart.

The Air Force intends to grant a license for the patent unless a written objection is received within fifteen (15) calendar days from the date of publication of this Notice. Written objection should be sent to: Air Force Materiel Command Law Office, AFMCLO/JAZ, 2240 B Street, Rm. D–14, Wright-Patterson AFB, OH 45433–7109; Facsimile: (937) 255–3733.

Tommy W. Lee,

Acting Air Force Federal Register Liaison Officer.

[FR Doc. 2014–05617 Filed 3–20–14; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Army

Final Environmental Impact Statement for the Implementation of Energy, Water, and Solid Waste Sustainability Initiatives at Fort Bliss, TX and NM

AGENCY: Department of the Army, DoD.

ACTION: Notice of Availability.

SUMMARY: The Department of the Army announces the availability of the Final Environmental Impact Statement (EIS) for the implementation of energy, water, and solid waste sustainability initiatives at Fort Bliss, Texas and New Mexico. The Department proposes to implement Net Zero energy, water, and waste initiatives at Fort Bliss, which would also facilitate meeting mandates for renewable energy production and greenhouse gas emissions reductions. In so implementing Net Zero, the Army will enhance Fort Bliss' energy and water security, supporting the military mission into the future. Although some training land would be converted to other uses, Fort Bliss would not lose any overall training capability as a result of Net Zero project implementation. The Proposed Action consists of multiple, related, and interconnected projects to achieve Net Zero goals, comply with federal and Army energy mandates, and meet the Army's energy and water security objectives.

The proposed action has six alternatives. The Final EIS indicates that there could be significant impacts to air quality, vegetation, archeological sites, soils, land use, and traffic. Of these, all but land use (as a result of converting training land to developed land) are anticipated to be mitigable to less than significant.

DATES: The waiting period for the Final EIS will end 30 days after publication of the Notice of Availability in the **Federal Register** by the U.S. Environmental Protection Agency, at which time the Army may execute a record of decision.

ADDRESSES: Written comments may be addressed to Dr. John Kipp, Fort Bliss Directorate of Public Works, Attention: IMBL–PWE (Kipp), Building 624 Pleasonton Road, Fort Bliss, TX 79916; email: *john.m.kipp6.civ@mail.mil;* fax: (915) 568–3548.

FOR FURTHER INFORMATION CONTACT: Please contact Ms. Donita Kelley, Fort Bliss Public Affairs Office, Attention: IMBL–PA (Kelley), Building 15 Slater Road, Fort Bliss, TX 79916; phone: (915) 568–4505; email: *donita.k.schexnaydre.civ@mail.mil.*

SUPPLEMENTARY INFORMATION: The Army examined the potential environmental and socioeconomic impacts from implementing multiple, related, and interconnected proposed projects that could be taken to implement Net Zero energy, water, and waste initiatives, comply with federal and Army energy mandates, and meet the Army's energy and water security objectives. Not all projects analyzed in the Final EIS would be implemented to the full extent discussed in the document. Technological advancements, legislative changes, and other factors may result in revisions to the proposed projects.

The preferred alternative (Proposed Action) consists of six action alternatives (Alternatives 2 through 7): Implementation of conservation policies and procedures (Alternative 2); construction of a water reclamation pipeline (Alternative 3); construction and operation of a waste-to-energy plant (Alternative 4); construction and operation of a geothermal energy facility

(Alternative 5); and construction of dry-cooled concentrating solar power technology (Alternative 6). Alternative 7 proposes implementation of other renewable energy technologies and projects that are compatible with installation planning criteria and address potential future renewable energy, water, and waste technology actions at a programmatic level. As warranted, additional site-specific documentation supporting National Environmental Policy Act processes will occur prior to execution of individual facility construction activities.

The Final EIS also analyzes the potential environmental impacts of the No Action Alternative (Alternative 1) and the cumulative impacts of the Proposed Action in combination with other past, present, and reasonably foreseeable future actions.

In developing the Final EIS, the Army took into consideration the comments received on the Draft EIS. Included among the changes made since publication of the Draft EIS are the removal of site-specific locations for a proposed waste-to-energy plant and a commitment to conduct further analysis, should the Army consider pursuing this type of technology in the future.

The Final EIS addresses potential environmental and socioeconomic impacts from implementation of the Proposed Action. Impacts range from beneficial to no effect to significant. There could be significant impacts to air quality, vegetation, archeological sites, soils, land use, and traffic. Of these, all but land use (as a result of converting training land to developed land) and soils (disturbance of up to 300 acres for construction of concentrating solar power arrays) are anticipated to be mitigable to less than significant. Potentially beneficial impacts are projected for air quality, energy demand and generation, socioeconomics, water supply sources, water demand, and wastewater reuse. The Army has consulted with the U.S. Fish and Wildlife Service, Texas and New Mexico State Historic Preservation Offices, Tribes, and other consulting parties to mitigate potential impacts to biological and cultural resources. The EIS identifies mitigation to lessen adverse impacts.

Cooperating Agencies: The US Air Force (Holloman Air Force Base [AFB]) is a cooperating agency on the Final EIS. Certain proposed projects considered in the alternatives evaluated could affect Holloman AFB units that use Fort Bliss ranges and airspace for training operations.

The U.S. Army plans to issue a Record of Decision following a 30-day waiting period beginning with the date of this notice. The Record of Decision will include final mitigation measures the Army will adopt.

Copies of the Final EIS are available at the following libraries: El Paso Main Library, Irving Schwartz Branch Library, Richard Burges Branch Library, and University of Texas at El Paso Library in El Paso, TX; Alamogordo Public Library in Alamogordo, NM; and, New Mexico State University Zuhl Library and Thomas Branigan Memorial Library in Las Cruces, NM. The Final EIS may also be accessed at *http://ftblissnetzeroeis.net/index.html* or *https://www.bliss.army.mil/DPW/Environmental/EIS Documents2.html.*

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2014–06176 Filed 3–20–14; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Notice of Public Comment Period for the Missouri River Recovery Implementation Committee's Proposed Charter Amendments, Missouri River, United States

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of public comment period.

SUMMARY: The Missouri River Recovery Implementation Committee, referred to as MRRIC or the Committee, is seeking comments to its proposed Charter amendments on or before April 19, 2014. MRRIC has reached tentative consensus on three (3) proposed amendments to its Charter, originally approved on July 1, 2008. Prior to seeking final consensus and recommending the amendments to the Secretary for final adoption, the Corps of Engineers, on behalf of the Committee, seeks public comments on the following tentative recommendations:

(1) *Charter amendment 1:* Section V, ''Membership and Representation of Interests,'' should be amended to specifically add the ''Osage Nation'' to the list of subsection (d) Tribes, as eligible for membership in the Committee.

Background: On August 9, 2013 the MRRIC Chair received a letter from Principal Chief Red Eagle of the Osage Nation requesting the Osage Nation become a member of MRRIC. MRRIC discussed this request and reached tentative consensus in November 2013 on a recommendation to revise the MRRIC Charter to include the Osage Nation as a member of the Committee. The Osage Nation is a federally-recognized Tribe with land near the basin and historical ties to the Missouri River.

(2) *Charter amendment 2:* Section V, ''Membership and Representation of Interests,'' subsection (e)(i) should be amended to indicate that there will be a maximum of twenty-nine (29) stakeholder members (rather than 28).

Background: The Committee discussed the original intention to invite an equal number of stakeholder members and Tribal members to serve on the Committee. To maintain this balance when adding the Osage Nation to MRRIC, the Committee reached tentative consensus in November 2013 on a recommendation to increase the number of stakeholder members from 28 to 29.

(3) *Charter amendment 3:* Section VII, ''Roles, Responsibilities and Leadership'' subsection (a)(iv) should be amended, striking the phrase ''for no more than three (3) additional terms of one (1) year each'' such that the amended language reads as:

iv. The Chair and Vice Chair will serve or be removed with the consensus of the Committee. The term of office of the Chair and Vice Chair will be one (1) year, with the opportunity for reappointment. Should a Committee member believe the Chair and/or Vice Chair are not performing in a fair and balanced manner, it is the responsibility of the member to raise his/her concerns to the Chair or to the full Committee for consideration.

Background: The Committee discussed the need for term limits on leadership and concluded that the ability to remove the Chair and Vice Chair with consensus of MRRIC is sufficient. The Committee also concluded that it was important to have a Chair with knowledge and familiarity of the Committee and its operations and consequently it may be difficult to find many individuals who best match the needs of MRRIC. The Chair's performance will continue to be evaluated by MRRIC annually. The Committee reached tentative consensus on this recommended amendment in February 2014.

DATES: All comments to this public notice should be submitted on or before April 19, 2014.

ADDRESSES: Submit comments to U.S. Army Corps of Engineers, Attn: Mary

Roth, MRRIC Project Manager, 1616 Capitol Ave. Ste. 900, Omaha, NE 68102.

FOR FURTHER INFORMATION CONTACT: Additional information about this public notice may be obtained by contacting Mary Roth, MRRIC Project Manager, (402) 995–2919 or via email at *Info@MRRIC.org.*

SUPPLEMENTARY INFORMATION: The Secretary of the Army (Secretary) established the Missouri River Recovery Implementation Committee in 2008, as authorized by Section 5018 of the 2007 Water Resources Development Act (WRDA), to make recommendations and provide guidance on a study of the Missouri River and its tributaries and on the existing Missouri River recovery and mitigation plan. *Note: Work on the referenced Missouri River and tributaries study is currently suspended in accordance with the Consolidated Appropriations Act of 2014 (Sect. 114) signed by the President January 3, 2014.* The Committee provides a collaborative forum for the basin to come together and develop a shared vision and comprehensive plan for Missouri River recovery. The Committee helps guide the prioritization, implementation, monitoring, evaluation and adaption of recovery actions. The Committee includes broad stakeholder representation to ensure a comprehensive approach to Missouri River recovery implementation while providing for congressionally-authorized Missouri River project purposes and to ensure that public values are incorporated into the study and the recovery and mitigation plans.

Comments: This notice is provided to outline details of the above-described activity so this Committee may consider all pertinent public comments prior to final consensus and recommendation of the Charter amendments to the Secretary for final adoption. Any interested party is invited to submit written comments on any or all of the contemplated amendments on or before the public notice expiration date, April 19, 2014. Comments about the proposed amendments, both favorable and unfavorable, will be accepted and made part of the record and will receive consideration by the Committee in determining whether to amend its Charter. Comments should be provided to the individual listed in this public notice under the **FOR FURTHER INFORMATION CONTACT** section.

Reference: Missouri River Recovery Implementation Committee Charter, July 1, 2008; *http://moriverrecovery.usace.army.mil/mrrp/mrrp_pub_dev.download_documentation?p_file=425.*

For more information about the Missouri River Recovery Implementation Committee, visit: *www.MRRIC.org.*

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2014–06175 Filed 3–20–14; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF ENERGY

[OE Docket No. EA–391]

Application To Export Electric Energy; Emera Energy Services Subsidiary No. 6 LLC

AGENCY: Office of Electricity Delivery and Energy Reliability, DOE.

ACTION: Notice of application.

SUMMARY: Emera Energy Services Subsidiary No. 6 LLC (EESS–6) has applied for authority to transmit electric energy from the United States to Canada pursuant to section 202(e) of the Federal Power Act (FPA).

DATES: Comments, protests, or motions to intervene must be submitted on or before April 21, 2014.

ADDRESSES: Comments, protests, or motions to intervene should be addressed to: Michael L. Rodrigue, Office of Electricity Delivery and Energy Reliability, Mail Code: OE–20, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585–0350. Because of delays in handling conventional mail, it is recommended that documents be transmitted by overnight mail, by electronic mail to *Michael.Rodrigue@hq.doe.gov,* or by facsimile to 202–586–8008.

FOR FURTHER INFORMATION CONTACT: Michael L. Rodrigue (Program Office) at 202–586–2942, or by email at *Michael.Rodrigue@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated by the Department of Energy (DOE) pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. 7151(b), 7172(f)) and require authorization under section 202(e) of the Federal Power Act (16 U.S.C. 824a(e)).

On February 25, 2014, DOE received an application from EESS–6 for authority to transmit electric energy from the United States to Canada for five years as a power marketer using existing international transmission facilities. EESS–6 does not own any electric transmission facilities nor does it hold a franchised service area. EESS–6 states that it will make all of the necessary commercial arrangements and will obtain any and all of the required regulatory approvals in order to effect any power exports.

The electric energy that EESS–6 proposes to export to Canada would be surplus energy purchased from electric utilities and other entities within the United States. The existing international transmission facilities to be utilized by EESS–6 have previously been authorized by Presidential permits issued pursuant to Executive Order 10485, as amended, and are appropriate for open access transmission by third parties.

Procedural Matters: Any person desiring to be heard in this proceeding should file a comment or protest to the application at the address provided above. Protests should be filed in accordance with Rule 211 of the Federal Energy Regulatory Commission's (FERC) Rules of Practice and Procedures (18 CFR 385.211). Any person desiring to become a party to these proceedings should file a motion to intervene at the above address in accordance with FERC Rule 214 (18 CFR 385.214). Five copies of such comments, protests, or motions to intervene should be sent to the address provided above on or before the date listed above.

Comments on the EESS–6 application to export electric energy to Canada should be clearly marked with OE Docket No. EA–391. An additional copy is to be provided directly to Will Szubielski, c/o Emera Energy Inc., 1223 Lower Water Street, Halifax, Nova Scotia B3J 3S8 and Bonnie A. Suchman, Troutman Sanders LLP, 401 9th Street, NW., Suite 1000, Washington, DC 20004. A final decision will be made on this application after the environmental impacts have been evaluated pursuant to DOE's National Environmental Policy Act Implementing Procedures (10 CFR part 1021) and after a determination is made by DOE that the proposed action will not have an adverse impact on the sufficiency of supply or reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above, by accessing the program Web site at *http://energy.gov/node/11845,* or by emailing Angela Troy at *Angela.Troy@hq.doe.gov.*

Issued in Washington, DC, on March 14, 2014.

Brian Mills,

Director, Permitting and Siting, Office of Electricity Delivery and Energy Reliability.

[FR Doc. 2014–06191 Filed 3–20–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[OE Docket No. EA–393]

Application To Export Electric Energy; Emera Energy Services Subsidiary No. 8 LLC

AGENCY: Office of Electricity Delivery and Energy Reliability, DOE.

ACTION: Notice of application.

SUMMARY: Emera Energy Services Subsidiary No. 8 LLC (EESS–8) has applied for authority to transmit electric energy from the United States to Canada pursuant to section 202(e) of the Federal Power Act (FPA).

DATES: Comments, protests, or motions to intervene must be submitted on or before April 21, 2014.

ADDRESSES: Comments, protests, or motions to intervene should be addressed to: Michael L. Rodrigue, Office of Electricity Delivery and Energy Reliability, Mail Code: OE–20, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585–0350. Because of delays in handling conventional mail, it is recommended that documents be transmitted by overnight mail, by electronic mail to *Michael.Rodrigue@hq.doe.gov,* or by facsimile to 202–586–8008.

FOR FURTHER INFORMATION CONTACT: Michael L. Rodrigue (Program Office) at 202–586–2942, or by email at *Michael.Rodrigue@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated by the Department of Energy (DOE) pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. 7151(b), 7172(f)) and require authorization under section 202(e) of the Federal Power Act (16 U.S.C. 824a(e)).

On February 25, 2014, DOE received an application from EESS–8 for authority to transmit electric energy from the United States to Canada for five years as a power marketer using existing international transmission facilities. EESS–8 does not own any electric transmission facilities nor does it hold a franchised service area. EESS–8 states that it will make all of the necessary commercial arrangements and will obtain any and all of the required regulatory approvals in order to effect any power exports.

The electric energy that EESS–8 proposes to export to Canada would be surplus energy purchased from electric utilities and other entities within the United States. The existing international transmission facilities to be utilized by EESS–8 have previously been authorized by Presidential permits issued pursuant to Executive Order 10485, as amended, and are appropriate for open access transmission by third parties.

Procedural Matters: Any person desiring to be heard in this proceeding should file a comment or protest to the application at the address provided above. Protests should be filed in accordance with Rule 211 of the Federal Energy Regulatory Commission's (FERC) Rules of Practice and Procedures (18 CFR 385.211). Any person desiring to become a party to these proceedings should file a motion to intervene at the above address in accordance with FERC Rule 214 (18 CFR 385.214). Five copies of such comments, protests, or motions to intervene should be sent to the address provided above on or before the date listed above.

Comments on the EESS–8 application to export electric energy to Canada should be clearly marked with OE Docket No. EA–393. An additional copy is to be provided directly to Will Szubielski, c/o Emera Energy Inc., 1223 Lower Water Street, Halifax, Nova Scotia B3J 3S8 and Bonnie A. Suchman, Troutman Sanders LLP, 401 9th Street NW., Suite 1000, Washington, DC 20004. A final decision will be made on this application after the environmental impacts have been evaluated pursuant to DOE's National Environmental Policy Act Implementing Procedures (10 CFR part 1021) and after a determination is made by DOE that the proposed action will not have an adverse impact on the sufficiency of supply or reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above, by accessing the program Web site at *http://energy.gov/node/11845,* or by emailing Angela Troy at *Angela.Troy@hq.doe.gov.*

Issued in Washington, DC, on March 14, 2014.

Brian Mills,

Director, Permitting and Siting, Office of Electricity Delivery and Energy Reliability.

[FR Doc. 2014–06188 Filed 3–20–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[OE Docket No. EA–392]

Application To Export Electric Energy; Emera Energy Services Subsidiary No. 7 LLC

AGENCY: Office of Electricity Delivery and Energy Reliability, DOE.

ACTION: Notice of application.

SUMMARY: Emera Energy Services Subsidiary No. 7 LLC (EESS–7) has applied for authority to transmit electric energy from the United States to Canada pursuant to section 202(e) of the Federal Power Act (FPA).

DATES: Comments, protests, or motions to intervene must be submitted on or before April 21, 2014.

ADDRESSES: Comments, protests, or motions to intervene should be addressed to: Michael L. Rodrigue, Office of Electricity Delivery and Energy Reliability, Mail Code: OE–20, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585–0350. Because of delays in handling conventional mail, it is recommended that documents be transmitted by overnight mail, by electronic mail to *Michael.Rodrigue@hq.doe.gov,* or by facsimile to 202–586–8008.

FOR FURTHER INFORMATION CONTACT: Michael L. Rodrigue (Program Office) at 202–586–2942, or by email at *Michael.Rodrigue@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated by the Department of Energy (DOE) pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. 7151(b), 7172(f)) and require authorization under section 202(e) of the Federal Power Act (16 U.S.C. 824a(e)).

On February 25, 2014, DOE received an application from EESS–7 for authority to transmit electric energy from the United States to Canada for five years as a power marketer using existing international transmission facilities. EESS–7 does not own any electric transmission facilities nor does it hold a franchised service area. EESS–7 states that it will make all of the necessary commercial arrangements and will obtain any and all of the required regulatory approvals in order to effect any power exports.

The electric energy that EESS–7 proposes to export to Canada would be surplus energy purchased from electric utilities and other entities within the United States. The existing international transmission facilities to be utilized by

EESS–7 have previously been authorized by Presidential permits issued pursuant to Executive Order 10485, as amended, and are appropriate for open access transmission by third parties.

Procedural Matters: Any person desiring to be heard in this proceeding should file a comment or protest to the application at the address provided above. Protests should be filed in accordance with Rule 211 of the Federal Energy Regulatory Commission's (FERC) Rules of Practice and Procedures (18 CFR 385.211). Any person desiring to become a party to these proceedings should file a motion to intervene at the above address in accordance with FERC Rule 214 (18 CFR 385.214). Five copies of such comments, protests, or motions to intervene should be sent to the address provided above on or before the date listed above.

Comments on the EESS–7 application to export electric energy to Canada should be clearly marked with OE Docket No. EA–392. An additional copy is to be provided directly to Will Szubielski, c/o Emera Energy Inc., 1223 Lower Water Street, Halifax, Nova Scotia B3J 3S8 and Bonnie A. Suchman, Troutman Sanders LLP, 401 9th Street NW., Suite 1000, Washington, DC 20004. A final decision will be made on this application after the environmental impacts have been evaluated pursuant to DOE's National Environmental Policy Act Implementing Procedures (10 CFR part 1021) and after a determination is made by DOE that the proposed action will not have an adverse impact on the sufficiency of supply or reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above, by accessing the program Web site at *http://energy.gov/node/11845,* or by emailing Angela Troy at *Angela.Troy@hq.doe.gov.*

Issued in Washington, DC, on March 14, 2014.

Brian Mills,

Director, Permitting and Siting, Office of Electricity Delivery and Energy Reliability.

[FR Doc. 2014–06190 Filed 3–20–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

President's Council of Advisors on Science and Technology Meeting

AGENCY: Department of Energy.

ACTION: Notice of partially-closed meeting.

SUMMARY: This notice sets forth the schedule and summary agenda for a partially closed meeting of the President's Council of Advisors on Science and Technology (PCAST), and describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2.

DATES: April 4, 2014; 9:00 a.m. to 12:00 p.m.

ADDRESSES: The meeting will be held at the National Academy of Sciences, 2101 Constitution Avenue NW., Washington, DC in the Lecture Room.

FOR FURTHER INFORMATION CONTACT: Information regarding the meeting agenda, time, location, and how to register for the meeting is available on the PCAST Web site at: *http://whitehouse.gov/ostp/pcast.* A live video webcast and an archive of the webcast after the event are expected to be available at *http://whitehouse.gov/ostp/pcast.* The archived video will be available within one week of the meeting. Questions about the meeting should be directed to Dr. Ashley Predith at *apredith@ostp.eop.gov*, (202) 456–6039. Please note that public seating for this meeting is limited and is available on a first-come, first-served basis.

SUPPLEMENTARY INFORMATION: The President's Council of Advisors on Science and Technology (PCAST) is an advisory group of the nation's leading scientists and engineers, appointed by the President to augment the science and technology advice available to him from inside the White House, cabinet departments, and other Federal agencies. See the Executive Order at *http://www.whitehouse.gov/ostp/pcast.* PCAST is consulted about and provides analyses and recommendations concerning a wide range of issues where understandings from the domains of science, technology, and innovation may bear on the policy choices before the President. PCAST is co-chaired by Dr. John P. Holdren, Assistant to the President for Science and Technology, and Director, Office of Science and Technology Policy, Executive Office of the President, The White House; and Dr. Eric S. Lander, President, Broad Institute of the Massachusetts Institute of Technology and Harvard.

Type of Meeting: Open and Closed.

Proposed Schedule and Agenda: The President's Council of Advisors on Science and Technology (PCAST) is scheduled to meet in open session on April 4, 2014 from 9:00 a.m. to 12:00 p.m.

Open Portion of Meeting: During this open meeting, PCAST is scheduled to discuss its work on antibiotic resistance and on big data and privacy. PCAST is tentatively scheduled to hear from speakers on the topics of analytical techniques to support public policy decision making and of science and technology issues at the Department of Commerce. Additional information and the agenda, including any changes that arise, will be posted at the PCAST Web site at: *http://whitehouse.gov/ostp/pcast.*

Closed Portion of the Meeting: PCAST may hold a closed meeting of approximately 1 hour with the President on April 4, 2014, which must take place in the White House for the President's scheduling convenience and to maintain Secret Service protection. This meeting will be closed to the public because such portion of the meeting is likely to disclose matters that are to be kept secret in the interest of national defense or foreign policy under 5 U.S.C. 552b(c)(1).

Public Comments: It is the policy of the PCAST to accept written public comments of any length, and to accommodate oral public comments whenever possible. The PCAST expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements.

The public comment period for this meeting will take place on April 4, 2014 at a time specified in the meeting agenda posted on the PCAST Web site at *http://whitehouse.gov/ostp/pcast.* This public comment period is designed only for substantive commentary on PCAST's work, not for business marketing purposes.

Oral Comments: To be considered for the public speaker list at the meeting, interested parties should register to speak at *http://whitehouse.gov/ostp/pcast*, no later than 12:00 p.m. Eastern Time on March 28, 2014. Phone or email reservations will not be accepted. To accommodate as many speakers as possible, the time for public comments will be limited to two (2) minutes per person, with a total public comment period of up to 30 minutes. If more speakers register than there is space available on the agenda, PCAST will randomly select speakers from among those who applied. Those not selected to present oral comments may always file written comments with the committee. Speakers are requested to bring at least 25 copies of their oral comments for distribution to the PCAST members.

Written Comments: Although written comments are accepted continuously, written comments should be submitted to PCAST no later than 12:00 p.m. Eastern Time on March 28, 2014 so that

the comments may be made available to the PCAST members prior to this meeting for their consideration. Information regarding how to submit comments and documents to PCAST is available at *http://whitehouse.gov/ostp/pcast* in the section entitled ''Connect with PCAST.''

Please note that because PCAST operates under the provisions of FACA, all public comments and/or presentations will be treated as public documents and will be made available for public inspection, including being posted on the PCAST Web site.

Meeting Accommodations: Individuals requiring special accommodation to access this public meeting should contact Dr. Ashley Predith at least ten business days prior to the meeting so that appropriate arrangements can be made.

Issued in Washington, DC, on March 14, 2014.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2014–06197 Filed 3–20–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

H2 Refuel H-Prize Draft Guidelines Released for Public Comment

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy (DOE).

ACTION: Notice of Public Comment Period for the H2 Refuel H-Prize Draft Guidelines.

SUMMARY: The Department of Energy (DOE) announces in this notice the release of the H2 Refuel H-Prize Draft Guidelines for public comment, pursuant to Section 654 of the Energy Independence and Security Act of 2007, Public Law 110–140 (December 19, 2007). Interested persons are encouraged to learn about the H2 Refuel H-Prize guidelines at: *http://www.hydrogen.energy.gov/hprize.html.*

DATES: Comments on the draft H2 Refuel H-Prize draft guidelines must be received within 30 days of the **Federal Register** Notice publication date.

ADDRESSES: U.S. Department of Energy, Golden Field Office, 15013 Denver West Parkway, Golden, CO 80401–3111, Attn: Reginald Tyler.

To submit comments, interested persons are encouraged to follow any of the listed methods: Email: *HPrize@go.doe.gov.* Include ''H2 Refuel H-Prize'' in the Subject line.

FOR FURTHER INFORMATION CONTACT: Questions may be directed to Reginald Tyler at 720–356–1805 or by email at *Reginald.tyler@go.doe.gov.*

SUPPLEMENTARY INFORMATION: In 2007 the Energy Independence and Security Act authorized the H-Prize to competitively award prizes for advances in hydrogen energy technologies in order to accelerate and reward breakthroughs in notable scientific and engineering challenges, while engaging a broad range of participants. The $1 million H2 Refuel H-Prize challenges America's engineers and entrepreneurs to develop affordable systems for small-scale, non-commercial hydrogen fueling, at homes or multi-use sites that can supplement the current development of hydrogen fueling station infrastructure. Successful entries will install and test systems that generate hydrogen from resources available to most homes, electricity and natural gas, and dispense the hydrogen into vehicles. Winners will demonstrate that they can meet both the technical and cost criteria as outlined in the final guidelines.

Today's notice announces the availability of draft guidelines for administration of the prize competition.

The DOE will consider any comments received within 30 days of the **Federal Register** Notice publication date.

Issued in Golden, CO, on March 12, 2014.

Christina Kouch,

Contracting Officer.

[FR Doc. 2014–06193 Filed 3–20–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2238–006; *ER10–2239–006*; *ER10–2237–005*; *ER12–896–002.*

Applicants: Indigo Generation LLC, Larkspur Energy LLC, Wildflower Energy LP, Mariposa Energy, LLC.

Description: Supplement to June 13, 2013 Triennial Market Power Analysis for the Southwest Region of the DGC Southwest Sellers.

Filed Date: 3/13/14.

Accession Number: 20140313–5087.

Comments Due: 5 p.m. ET 3/24/14.

Docket Numbers: ER14–603–001.

Applicants: Midcontinent Independent System Operator, Inc.

Description: 2014–03–12_SA 1519 G132 Unexecuted Amended GIA Deficiency Response to be effective 12/13/2013.

Filed Date: 3/12/14.

Accession Number: 20140312–5335.

Comments Due: 5 p.m. ET 4/2/14.

Docket Numbers: ER14–616–001.

Applicants: New England Power Pool Participants Committee, ISO New England Inc.

Description: ORTP Compliance Filing to be effective 2/11/2014.

Filed Date: 3/13/14.

Accession Number: 20140313–5068.

Comments Due: 5 p.m. ET 4/3/14.

Docket Numbers: ER14–801–001.

Applicants: Midcontinent Independent System Operator, Inc.

Description: 2014–03–13 Docket No. ER14–801–000_GVTC Compliance Filing to be effective 2/21/2014.

Filed Date: 3/13/14.

Accession Number: 20140313–5086.

Comments Due: 5 p.m. ET 4/3/14.

Docket Numbers: ER14–822–001.

Applicants: PJM Interconnection, L.L.C.

Description: Response to Deficiency Letter dated 3/6/2014 in Docket No. ER14–822 to be effective 3/15/2014.

Filed Date: 3/12/14.

Accession Number: 20140312–5316.

Comments Due: 5 p.m. ET 3/24/14.

Docket Numbers: ER14–864–001.

Applicants: New York Independent System Operator, Inc.

Description: NYISO compliance re: Proxy generator bus pricing rules to be effective 4/8/2014.

Filed Date: 3/13/14.

Accession Number: 20140313–5073.

Comments Due: 5 p.m. ET 4/3/14.

Docket Numbers: ER14–1471–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: 2014–03–11_SA 2637 Border Winds-NSP E&P Agreement (J290) to be effective 3/13/2014.

Filed Date: 3/12/14.

Accession Number: 20140312–5332.

Comments Due: 5 p.m. ET 4/2/14.

Docket Numbers: ER14–1474–000.

Applicants: WSPP Inc.

Description: List of Members Update to be effective 3/3/2014.

Filed Date: 3/12/14.

Accession Number: 20140312–5299.

Comments Due: 5 p.m. ET 4/2/14.

Docket Numbers: ER14–1475–000.

Applicants: Invenergy Nelson LLC.

Description: Request of Invenergy Nelson LLC for Limited Waiver of the PJM Interconnection, L.L.C. Tariff, for Shortened Comment Period and for Expedited Action.

Filed Date: 3/12/14.

Accession Number: 20140312–5322.
Comments Due: 5 p.m. ET 3/26/14.

Docket Numbers: ER14–1476–000.
Applicants: PJM Interconnection, L.L.C.
Description: Queue Position Y1–003; Original Service Agreement No. 3777 to be effective 2/11/2014.
Filed Date: 3/13/14.
Accession Number: 20140313–5034.
Comments Due: 5 p.m. ET 4/3/14.

Docket Numbers: ER14–1477–000.
Applicants: New England Power Pool Participants Committee, ISO New England Inc.
Description: ORTP Revisions for FCA 9 to be effective 5/13/2014.
Filed Date: 3/13/14.
Accession Number: 20140313–5069.
Comments Due: 5 p.m. ET 4/3/14.

Docket Numbers: ER14–1478–000.
Applicants: Southwest Power Pool, Inc.
Description: 2817 Flat Ridge 2 Wind Energy & Westar Meter Agent Agreement to be effective 3/1/2014.
Filed Date: 3/13/14.
Accession Number: 20140313–5093.
Comments Due: 5 p.m. ET 4/3/14.

Docket Numbers: ER14–1479–000.
Applicants: Southwest Power Pool, Inc.
Description: 2802 Arkansas Electric Cooperative Corporation & Westar Meter Agent Agreement to be effective 3/1/2014.
Filed Date: 3/13/14.
Accession Number: 20140313–5094.
Comments Due: 5 p.m. ET 4/3/14.

Docket Numbers: ER14–1480–000.
Applicants: KMC Thermo, LLC.
Description: Notice of Succession—Reactive Power Tariff to be effective 6/1/2014.
Filed Date: 3/13/14.
Accession Number: 20140313–5099.
Comments Due: 5 p.m. ET 4/3/14.

Docket Numbers: ER14–1481–000.
Applicants: Southwest Power Pool, Inc.
Description: 2810 City of Chanute & Westar Energy Meter Agent Agreement to be effective 3/13/2014.
Filed Date: 3/13/14.
Accession Number: 20140313–5101.
Comments Due: 5 p.m. ET 4/3/14.

Docket Numbers: ER14–1482–000.
Applicants: Southwest Power Pool, Inc.
Description: 2827 Kansas Power Pool & Westar Meter Agent Agreement to be effective 3/1/2014.
Filed Date: 3/13/14.
Accession Number: 20140313–5102.
Comments Due: 5 p.m. ET 4/3/14.

Docket Numbers: ER14–1483–000.
Applicants: PJM Interconnection, L.L.C.
Description: Original Service Agreement No. 3776; Queue No. T16 to be effective 2/11/2014.
Filed Date: 3/13/14.
Accession Number: 20140313–5103.
Comments Due: 5 p.m. ET 4/3/14.

Docket Numbers: ER14–1484–000.
Applicants: Southwestern Public Service Company.
Description: 2014–3–13_GSEC–LYNGR–CA–Welch–659–0.0.0—Filing to be effective 5/12/2014.
Filed Date: 3/13/14.
Accession Number: 20140313–5110.
Comments Due: 5 p.m. ET 4/3/14.

Take notice that the Commission received the following open access transmission tariff filings:

Docket Numbers: OA08–111–006.
Applicants: Portland General Electric Company.
Description: Annual Informational Filing on Operational Penalty Assessments and Distributions as Required by Order Nos. 890 and 890–A of Portland General Electric.
Filed Date: 3/13/14.
Accession Number: 20140313–5012.
Comments Due: 5 p.m. ET 4/3/14.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf*. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 13, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–06213 Filed 3–20–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER14–1468–000]

KMC Thermo, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of KMC Thermo, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is April 3, 2014.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email

FERCOnlineSupport@ferc.gov. or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 14, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–06214 Filed 3–20–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EL14–31–000; QF87–483–005]

AES Hawaii, Inc.; Notice of Petition for Temporary Waiver

February 25, 2014.

Take notice that on February 21, 2014, pursuant to section 292.205(c) of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 292.205(c), AES Hawaii, Inc. (AES Hawaii) filed a Petition for Temporary Waiver, for calendar year 2013, of the five percent operating standard set forth in 18 CFR 292.205(a)(1) of the Commission's Regulations with respect to its cogeneration facility (Facility) located on the island of Oahu, Hawaii. AES Hawaii makes such a request because of an unplanned, operational repair need of the Facility's thermal host.

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 p.m. Eastern Time on March 14, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–06343 Filed 3–20–14; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2013–0150; FRL–9908–55–OEI]

Information Collection Request; Requirements for Certified Applicators Using 1080 Collars for Livestock Protection; Submitted to OMB for Review and Approval; Comment Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA has submitted this information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is for the renewal of an ICR that is currently approved through March 31, 2014. EPA received no comments in response to the public review opportunity issued on July 17, 2013 (78 FR 42774). This notice allows for an additional 30 days for public comments. A brief description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before April 21, 2014.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OPP–2013–0150, to (1) EPA online using *http://www.regulations.gov* (our preferred method), or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov* addressed to the OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Rame Cromwell, Field and External Affairs Division (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (703) 308–9068; fax number: (703) 305–5884; email address: *cromwell.rame@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the docket for this ICR. The docket can be viewed online at *http://www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Title: Requirements for Certified Applicators Using 1080 Collars for Livestock Protection.

ICR numbers: EPA ICR No. 1249.10, OMB Control No. 2070–0074.

ICR status: The current OMB approval for this ICR is scheduled to expire on March 31, 2014. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB.

Abstract: This ICR potentially affects non-federal Certified Applicators in three States (New Mexico, South Dakota, and Wyoming), the State lead agencies for pesticide regulation in those States that monitor the program and are themselves registrants of 1080 Livestock Protection Collar products, and one additional registrant. EPA also receives annual reports on use of a 1080 Livestock Protection Collar product registered to the U.S. Department of Agriculture, Animal and Plant Health Inspection Service (USDA/APHIS). That product is applied in several States by employees of USDA/APHIS. Applicators who are certified to apply livestock protection collars are required to keep records of: (a) The number of collars attached on livestock; (b) the pasture(s) where collared livestock were placed; (c) the dates of each attachment,

inspection, and removal; (d) the number and locations of livestock found with ruptured or punctured collars and the apparent cause of the damage; (e) the number, dates, and approximate location of all collars lost; and (f) the species, locations, and dates of all suspected poisonings of humans, domestic animals or non-target wild animals resulting from collar use.

Respondents/affected entities: Entities potentially affected by this ICR are pesticide and other agricultural manufacturers (NAICS 325320), e.g., pesticide registrants whose products include 1080 collars; and government establishments primarily engaged in administration of environmental quality programs (NAICS 9241) e.g., states implementing a 1080 collar monitoring program.

Respondent's obligation to respond: Mandatory.

Estimated number of respondents: 48 (total).

Frequency of response: Annual.

Total estimated burden: 1,944 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $83,335 (per year), includes $0 annualized capital or operation and maintenance costs.

Changes in the estimates: There is no change in the total estimated respondent burden compared with the ICR currently approved by OMB.

Richard T. Westlund,

Acting Director, Collection Strategies Division.

[FR Doc. 2014–06221 Filed 3–20–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9908–22–Region–6]

Clean Air Act Operating Permit Program; Petitions for Objection To State Operating Permits for Consolidated Environmental Management, Inc.—Nucor Steel Louisiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final action.

SUMMARY: Pursuant to Clean Air Act (CAA) Section 505(b)(2) and 40 CFR 70.8(d), the EPA Administrator signed an Order, dated January 30, 2014, partially granting and partially denying three petitions asking EPA to object to operating permits (Permit Numbers 2560–00281–V0, 2560–00281–V1, and 3086–V0) issued by the Louisiana Department for Environmental Quality (LDEQ) to Consolidated Environmental Management, Inc.—Nucor Steel Louisiana (Nucor) relating to a facility located near Convent, Saint James Parish, Louisiana. Pursuant to CAA Section 505(b)(2) and 40 CFR 70.8(d), the EPA Administrator also signed an Order, dated June 19, 2013, denying one issue (''Specific Objection I'') raised in two of those petitions. Together, EPA's June 19, 2013 Order and January 30, 2014 Order respond to the three petitions submitted by Louisiana Environmental Action Network and Sierra Club (collectively, the Petitioners on June 25, 2010 (the 2010 Petition), May 3, 2011 (the 2011 Petition) and October 3, 2012 (the 2012 Petition), respectively. Sections 307(b) and 505(b)(2) of the Act provide that a petitioner may ask for judicial review of those portions of the Orders that deny objections raised in the petitions by the United States Court of Appeals for the appropriate circuit. Any petition for review shall be filed within 60 days from the date this notice appears in the **Federal Register**, pursuant to section 307(b) of the Act.

ADDRESSES: You may review copies of the final Orders, the petitions, and other supporting information at EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733.

EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view copies of the final Orders, petitions, and other supporting information. You may view the hard copies Monday through Friday, from 9:00 a.m. to 3:00 p.m., excluding Federal holidays. If you wish to examine these documents, you should make an appointment at least 24 hours before the visiting day. Additionally, the final June 19, 2013 Order and January 30, 2014 Orders are available electronically at: *http://www.epa.gov/Region7/air/title5/petitiondb/petitions/nucor_steel_partialresponse2011.pdf* and *http://www.epa.gov/Region7/air/title5/petitiondb/petitions/nucor_steel_response2012.pdf,* respectively.

FOR FURTHER INFORMATION CONTACT: Dinesh Senghani at (214) 665–7221, email address: *senghani.dinesh@epa.gov* or the above EPA, Region 6 address.

SUPPLEMENTARY INFORMATION: The CAA affords EPA a 45-day period to review, and object, as appropriate, to a title V operating permit proposed by a state permitting authority. Section 505(b)(2) of the CAA authorizes any person to petition the EPA Administrator, within 60 days after the expiration of this review period, to object to a title V operating permit if EPA has not done so. Petitions must be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided by the state, unless the petitioner demonstrates that it was impracticable to raise these issues during the comment period or unless the grounds for the issue arose after this period.

EPA received three petitions from the Petitioners, dated June 25, 2010, May 3, 2011, and October 3, 2012, to object to operating permits issued to Consolidated Environmental Management, Inc.—Nucor Steel Louisiana relating to a facility located near Convent, Saint James Parish, Louisiana.

The 2010 Petition requested that the Administrator object to a Nucor operating permit (Permit Number 2560–00281–V0) on the basis that: (1) The permit fails to apply the appropriate maximum achievable control technology (MACT) standards; (2) the modeling submitted by Nucor to support its PSD analysis is flawed, and (3) the title V permit fails to incorporate conditions sufficient to assure compliance with PSD. The 2011 Petition requested that the Administrator object to two Nucor operating permits (Permit Numbers 2560–00281–V1 and 3086–V0) on the following bases: (1) LDEQ failed to aggregate PSD permitting for emissions from the entire facility (this issue is also known as ''Specific Objection I'' in this matter); (2) the modified pig iron permit fails to apply MACT standards for the topgas boilers; (3) LDEQ failed to include emission limits for particulate matter less than 2.5 microns; (4) the limit for natural gas consumption is not the best available control technology for greenhouse gas (GHG) emissions from the Direct Reduced Iron (DRI) process; and (5) the DRI permits must specify procedures estimating GHG emissions. The 2012 Petition requested that the Administrator object to the Nucor operating permits for the reasons expressed in the 2010 and 2011 Petitions, which were incorporated by reference and attached to the 2012 Petition.

On June 19, 2013, the Administrator issued a partial Order denying Specific Objection I of the 2011 Petition and as re-raised in the 2012 Petition. On January 30, 2014, the Administrator issued an Order partially granting and partially denying the 2010, 2011, and 2012 Petitions, (except Specific Objection I). These Orders explain the reasons behind EPA's conclusion to grant in part and deny in part these three petitions. Together, the June 19, 2013 Order and January 30, 2014 Order

address all the objections originally raised in the 2010 Petition and the 2011 Petition, which were all re-raised in the 2012 Petition, as well as addressing the claims in the 2012 Petition.

Dated: March 7, 2014.

Ron Curry,

Regional Administrator, Region 6.

[FR Doc. 2014–06224 Filed 3–20–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9014–1]

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 03/10/2014 Through 03/14/2014

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. 20140073, Draft EIS, FHWA, FL, Gulf Coast Parkway, From US 98 to US 231 and US 98 (Tyndall Parkway), Comment Period Ends: 05/05/2014, Contact: Benito Cunill 850–553–2224.

EIS No. 20140074, Final EIS, USAF, 00, KC–46A Formal Training Unit (FTU) and First Main Operating Base (MOB 1) Beddown, Review Period Ends: 04/21/2014, Contact: Jean Reynolds 210–395–8541.

EIS No. 20140075, Final EIS, USFS, UT, Smiths Fork Vegetation Restoration Project, Review Period Ends: 04/21/2014, Contact: Pete Gomben 801–999–2182.

EIS No. 20140076, Final EIS, BLM, CO, Kremmling Proposed Resource Management Plan, Review Period Ends: 04/21/2014, Contact: Dennis Gale 970–724–3003.

EIS No. 20140077, Draft Supplement, USFS, NM, Carson and Santa Fe National Forests Invasive Plant Control Project, Comment Period Ends: 05/05/2014, Contact: Julie Bain 505–438–5443.

EIS No. 20140078, Draft EIS, BLM, ID, Proposed Modification to the Thomas Creek Mine Plan of Operations, Section 404 Clean Water Act Permit Application and Public Land Disposal, Resource Management Plan, Comment Period Ends: 07/18/2014, Contact: Ken Gardner 208–879–6210.

EIS No. 20140079, Draft EIS, NIH, MD, Proposed 2013 Master Plan National Institutes of Health Bethesda Campus, Comment Period Ends: 05/23/2014, Contact: Valerie Nottingham 301–496–7775.

EIS No. 20140080, Final EIS, USA, 00, Implementation of Energy, Water, and Solid Waste Sustainability Initiatives at Fort Bliss, Review Period Ends: 04/21/2014, Contact: John Kipp 915–568–5162.

EIS No. 20140081, Final EIS, USFS, MT, East Reservoir Project, Review Period Ends: 04/21/2014, Contact: Denise Beck 406–293–7773, ext. 7504.

EIS No. 20140082, Draft EIS, BLM, NV, Long Canyon Mine Project, Comment Period Ends: 05/05/2014, Contact: Whitney Wirthlin 775–861–6568.

EIS No. 20140083, Draft EIS, USACE, SC, Haile Gold Mine Project, Comment Period Ends: 05/09/2014, Contact: Richard Darden 843–329–8043.

EIS No. 20140084, Draft EIS, FERC, TX, Freeport LNG Liquefaction Project, Phase II Modification Project, Comment Period Ends: 05/05/2014, Contact: Eric Tomasi 202–502–8097.

EIS No. 20140085, Draft EIS, USFS, WY, Medicine Bow—Routt National Forests and Thunder Basin National Grassland Invasive Plant Management, Comment Period Ends: 05/07/2014, Contact: Melissa Martin 307–745–2371.

EIS No. 20140086, Draft EIS, USFS, ID, Upper North Fork HFRA Ecosystem Restoration Project, Comment Period Ends: 05/05/2014, Contact: Maggie Seaberg 208–756–2711.

EIS No. 20140087, Final EIS, FHWA, TX, Trinity Parkway, From IH–35E/SH–183 to US–17/SH–310, Review Period Ends: 05/05/2014, Contact: Salvador Deocampo 512–536–5950.

EIS No. 20140088, Final EIS, DOE, CO, PROGRAMMATIC—Uranium Leasing Program, Review Period Ends: 04/21/2014, Contact: Ray Plieness 303–410–4806.

EIS No. 20140089, Draft Supplement, BOEM, 00, Gulf of Mexico Outer Continental Shelf (OCS) Oil and Gas Lease Sales: 2015–2017, Central Planning Area Lease Sales 235, 241, and 247, Comment Period Ends: 05/05/2014, Contact: Gary Goeke 504–736–3233.

EIS No. 20140090, Final Supplement, BOEM, 00, Gulf of Mexico Outer Continental Shelf (OCS) Oil and Gas Lease Sales: 201–2016, Western Planning Area Lease Sales 238, 246, and 248, Review Period Ends: 04/21/2014, Contact: Gary Goeke 504–736–3233.

Amended Notices

EIS No. 20140033, Second Draft Supplement, USACE, WA, Grays Harbor Navigation Improvement Project, Comment Period Ends: 04/08/2014, Contact: Josh Jackson 206–764–6583.

Revision to the FR Notice Published 01/31/2014; Extending Comment Period from 03/24/2014 to 04/08/2014.

EIS No. 20140050, Draft EIS, NRC, OH, GENERIC—License Renewal of Nuclear Plants Regarding Davis-Besse Nuclear Station, Comment Period Ends: 04/21/2014, Contact: Elaine Keegan 301–415–8517.

Revision to the FR Notice Published 02/21/2014; Extending Comment Period from 04/14/2014 to 04/21/2014.

Dated: March 18, 2014.

Dawn Roberts,

Management Analyst, Office of Federal Activities.

[FR Doc. 2014–06230 Filed 3–20–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9908–35–OAR]

Meeting of the Mobile Sources Technical Review Subcommittee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Mobile Sources Technical Review Subcommittee (MSTRS) will meet on May 7, 2014. The MSTRS is a subcommittee under the Clean Air Act Advisory Committee. This is an open meeting. The meeting will include discussion of current topics and presentations about activities being conducted by EPA's Office of Transportation and Air Quality. The preliminary agenda for the meeting and any notices about change in venue will be posted on the Subcommittee's Web site: *http://www.epa.gov/air/caaac/mobile_sources.html*. MSTRS listserver subscribers will receive notification when the agenda is available on the Subcommittee Web site. To subscribe to the MSTRS listserver, send an email to *Etchells.elizabeth@epa.gov.*

DATES: Wednesday, May 7, 2014 from 9:00 a.m. to 4:30 p.m. Registration begins at 8:30 a.m.

ADDRESSES: The meeting is currently scheduled to be held at the Ralph Metcalfe Federal Building at 77 West Jackson Blvd., Chicago, IL 60604. However, this date and location are subject to change and interested parties should monitor the Subcommittee Web site (above) for the latest logistical information. The meeting will be held in the Lake Michigan Room on the 12th floor of the Ralph Metcalfe Federal Building. All visitors to the building must have a photo ID and are required to be screened through a metal detector. There are several parking garages nearby and the nearest subway/elevated rail (El) stops are La Salle/Van Buren (Pink, Orange, Brown, Purple lines), Jackson (Blue line) and Jackson (Red line).

FOR FURTHER INFORMATION CONTACT: Elizabeth Etchells, Designated Federal Officer, Transportation and Climate Division, Mailcode 6406J, U.S. EPA, 1200 Pennsylvania Ave. NW., Washington, DC 20460; Ph: 202–343–9231; email: *Etchells.elizabeth@epa.gov.*

Background on the work of the Subcommittee is available at: *http://www.epa.gov/air/caaac/mobile_sources.html*. Individuals or organizations wishing to provide comments to the Subcommittee should submit them to Ms. Etchells at the address above by April 23, 2014. The Subcommittee expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements.

SUPPLEMENTARY INFORMATION: During the meeting, the Subcommittee may also hear progress reports from some of its workgroups as well as updates and announcements on activities of general interest to attendees.

For Individuals With Disabilities: For information on access or services for individuals with disabilities, please contact Ms. Etchells (see above). To request accommodation of a disability, please contact Ms. Etchells, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: March 13, 2014.

Christopher Grundler,

Director, Office of Transportation and Air Quality, Office of Air and Radiation.

[FR Doc. 2014–06227 Filed 3–20–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2009–1017; FRL–9905–49]

Methiocarb, Lambda-Cyhalothrin, Permethrin and Prodiamine; Cancellation Order for Pesticide Registrations and Amendments To Terminate Certain Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's order for the amendments to terminate uses, voluntarily requested by the registrants and accepted by the Agency, of products containing methiocarb, lambda-cyhalothrin and prodiamine, pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). This cancellation order follows a November 29, 2013 **Federal Register** Notice of Receipt of Requests from the registrants listed in Table 2 of Unit II. to voluntarily amend to terminate uses of these product registrations. These are not the last products containing these pesticides registered for use in the United States. In the November 29, 2013 notice, EPA indicated that it would issue an order implementing the amendments to terminate uses, unless the Agency received substantive comments within the 30 day comment period that would merit its further review of these requests, or unless the registrants withdrew their requests. The Agency did not receive any comments on the notice. Further, the registrants did not withdraw their requests. Accordingly, EPA hereby issues in this notice a cancellation order granting the requested amendments to terminate uses. Any distribution, sale, or use of the products subject to this cancellation order is permitted only in accordance with the terms of this order, including any existing stocks provisions. In addition, for pertinent information relating to the permethrin product name Farnam Purge Plus Insecticide as published in the November 29, 2013 notice, see Unit II. of this notice.

DATES: The amendments are effective March 21, 2014.

FOR FURTHER INFORMATION CONTACT: John W. Pates, Jr., Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 308–8195; email address: *pates.john@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2009–1017 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.*

II. What action is the agency taking?

This notice announces the amendments to delete uses, as requested by registrants, of products registered under FIFRA section 3. These registrations are listed in sequence by registration number in Table 1 of this unit. In addition, pesticide registration number 000270–00279 and its contents has been removed from the listing in Table 1. EPA inadvertently listed the permethrin product name Farnam Purge Plus Insecticide for pesticide registration number 000270–00279 in the **Federal Register** of November 29, 2013 (78 FR 71609) (FRL 9902–77). Therefore, this action excludes pesticide registration number 000270–00279 from cancellation at this time. EPA will reissue pesticide product number 000270–00279 for voluntary cancellation in a future **Federal Register** notice.

TABLE 1—METHIOCARB, LAMBDA-CYHALOTHRIN AND PRODIAMINE PRODUCT REGISTRATION AMENDMENTS TO DELETE USES

EPA Registration number	Product name	Uses deleted
010163–00230	Mesurol Technical Insecticide	Domestic outdoor and nonresidential turf uses.
066222–00089	Prodiamine 65 WG Herbicide	Drainage ditch uses.
081927–00036	Alligare Prodiamine 65 WG Herbicide	Weed Control on drainage ditches in CA and AZ.
081927–00049	Alligare Prodiamine 4L	Weed Control on drainage ditches in CA and AZ.
088541–00001	Willowood Lambda-Cyhalothrin Technical	Indoor and outdoor residential uses.

Table 2 of this unit includes the names and addresses of record for all registrants of the products in Table 1 of this unit, in sequence by EPA company number. This number corresponds to the first part of the EPA registration numbers of the products listed in Table 1.

TABLE 2—REGISTRANTS OF AMENDED PRODUCTS

EPA Company No.	Company name and address
010163	Gowan Company, P.O. Box 5569, Yuma, AZ 85366.
66222	Makhteshim Agan of North America, Inc., 3120 Highwoods Blvd., Suite 100, Raleigh, NC 27604.
81927	Alligare, LLC, Agent: Pyxis Regulatory Consulting, Inc., 4110 136th St. NW., Gig Harbor, WA 98332.
88541	Willowood Lambda Cyhalothrin, LLC, Agent: Wagner Regulatory Associates, P.O. Box 640, Hockessin, DE 19707–0640.

III. Summary of Public Comments Received and Agency Response to Comments

During the public comment period provided, EPA received no comments in response to the November 29, 2013 **Federal Register** notice announcing the Agency's receipt of the requests for voluntary amendments to delete uses of products listed in Table 1 of Unit II.

IV. Cancellation Order

Pursuant to FIFRA section 6(f), EPA hereby approves the requested amendments to terminate uses of methiocarb, lambda-cyhalothrin and prodiamine registrations identified in Table 1 of Unit II. Accordingly, the Agency hereby orders that the product registrations identified in Table 1 of Unit II. are amended to terminate the affected uses. The effective date of the amendments that are subject of this notice is March 21, 2014. Any distribution, sale, or use of existing stocks of the products identified in Table 1 of Unit II. in a manner inconsistent with any of the provisions for disposition of existing stocks set forth in Unit VI. will be a violation of FIFRA.

V. What is the agency's authority for taking this action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled or amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, following the public comment period, the EPA Administrator may approve such a request. The notice of receipt for this action was published for comment on November 29, 2013. The comment period closed on December 30, 2013.

VI. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which were packaged, labeled, and released for shipment prior to the effective date of the action. The existing stocks provision for the products subject to this order is as follows.

Now that EPA has approved product labels reflecting the requested amendments to delete uses, registrants are permitted to sell or distribute products listed in Table 1 of Unit II. under the previously approved labeling until September 21, 2015, a period of 18 months after publication of the cancellation order in this **Federal Register**, unless other restrictions have been imposed. Thereafter, registrants will be prohibited from selling or distributing the products whose labels include the deleted uses identified in Table 1 of Unit II., except for export consistent with FIFRA section 17 or for proper disposal.

Persons other than the registrant may sell, distribute, or use existing stocks of products whose labels include the deleted uses until supplies are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the deleted uses.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: March 5, 2014.

Richard P. Keigwin, Jr.,

Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.

[FR Doc. 2014–05680 Filed 3–20–14; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK OF THE UNITED STATES

[Public Notice: 2014–6006; Form Title: EIB 95–09]

Agency Information Collection Activities; Proposals Submissions, and Approvals: Letter of Interest Application

AGENCY: Export-Import Bank of the United States.

ACTION: Submission for OMB review and comments request.

SUMMARY: The Export-Import Banks of the United States (Ex-Im Bank), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995.

The Letter of Interest (LI) is an indication of Export-Import (Ex-Im)

Bank's willingness to consider financing a given export transaction. Ex-Im Bank uses the requested information to determine the applicability of the proposed export transaction and determines whether or not to consider financing that transaction.

One question (appearing as number 1 in the previous version) from Attachment A has been removed in this updated version of the form, since it is no longer relevant.

The form can be reviewed at: *http://www.exim.gov/pub/pending/95-9-li-1.pdf*.

DATES: Comments must be received on or before May 20, 2014, *2014* to be assured of consideration.

ADDRESSES: Comments may be submitted electronically on *WWW.REGULATIONS.GOV* or by mail to Michele Kuester, Export-Import Bank of the United States, 811 Vermont Ave. NW., Washington, DC 20571.

SUPPLEMENTARY INFORMATION:

Title and Form Number: EIB 95–09 Letter of Interest Application.

OMB Number: 3048–0005.

Type of Review: Regular.

Need and Use: The Letter of Interest (LI) is an indication of Export-Import (Ex-Im) Bank's willingness to consider financing a given export transaction. Ex-Im Bank uses the requested information to determine the applicability of the proposed export transaction system prompts and determines whether or not to consider financing that transaction.

Affected Public: This form affects entities involved in the export of U.S. goods and services.

Annual Number of Respondents: 540.

Estimated Time per Respondent: 0.5 hours.

Annual Burden Hours: 270.

Frequency of Reporting of Use: On occasion.

Government Reviewing Time per Year: 270.

Average Wages per Hour: $42.50.

Average Cost per Year: $11,475.

Benefits and Overhead: 20%.

Total Government Cost: $13,770.

Alla Lake,

Agency Clearance Officer.

[FR Doc. 2014–06146 Filed 3–20–14; 8:45 am]

BILLING CODE 6690–01–P

EXPORT-IMPORT BANK OF THE UNITED STATES

[Public Notice: 2014–6007; Form Title: EIB 92–79]

Agency Information Collection Activities; Proposals Submissions, and Approvals: Broker Registration Form

AGENCY: Export-Import Bank of the United States.

ACTION: Submission for OMB review and comments request.

SUMMARY: The Export-Import Bank of the United States (Ex-Im Bank), as a part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995. Our customers will be able to submit this form on paper or electronically. This form is used by insurance brokers to register with Export-Import Bank. It provides Export-Import Bank staff with the information necessary to make a determination of the eligibility of the broker to receive commission payments under Export-Import Bank's credit insurance programs.

Form can be viewed at *http://www.exim.gov/pub/pending/eib92-79.pdf*.

DATES: Comments must be received on or before May 20, 2014, *2014* to be assured of consideration.

ADDRESSES: Comments may be submitted electronically on *WWW.REGULATIONS.GOV* or by mail to Michele Kuester, Export-Import Bank of the United States, 811 Vermont Ave. NW., Washington, DC 20571.

SUPPLEMENTARY INFORMATION:

Title and Form Number: EIB 92–27 Broker Registration Form.

OMB Number: 3048–0024.

Type of Review: Regular.

Need and Use: This form is used by insurance brokers to register with Export Import Bank. The form provides Export Import Bank staff with the information necessary to make a determination of the eligibility of the broker to receive commission payments under Export Import Bank's credit insurance programs.

Affected Public: This form affects entities engaged in brokering export credit insurance policies.

Annual Number of Respondents: 50.

Estimated Time per Respondent: 15 minutes.

Government Review Time per Response: 2 hours.

Frequency of Reporting or Use: Once every three years.

Government Reviewing Time per Year: 100 hours.

Average Wages per Hour: $42.50.

Average Cost per Year: $4,250.

Benefits and Overhead: 20%.

Total Government Cost: $5,100.

Alla Lake,

Agency Clearance Officer.

[FR Doc. 2014–06147 Filed 3–20–14; 8:45 am]

BILLING CODE 6690–01–P

EXPORT-IMPORT BANK

[Public Notice: 2014–0021]

Application for Final Commitment for a Long-Term Loan or Financial Guarantee in Excess of $100 Million: AP088580XX

AGENCY: Export-Import Bank of the United States.

ACTION: Notice.

SUMMARY: This Notice is to inform the public, in accordance with Section 3(c)(10) of the Charter of the Export-Import Bank of the United States (''Ex-Im Bank''), that Ex-Im Bank has received an application for final commitment for a long-term loan or financial guarantee in excess of $100 million (as calculated in accordance with Section 3(c)(10) of the Charter). Comments received within the comment period specified below will be presented to the Ex-Im Bank Board of Directors prior to final action on this Transaction. Comments received will be made available to the public.

DATES: Comments must be received on or before April 15, 2014 to be assured of consideration before final consideration of the transaction by the Board of Directors of Ex-Im Bank.

ADDRESSES: Comments may be submitted through Regulations.gov at *www.regulations.gov.* To submit a comment, enter [EIB–2014–0021] under the heading ''Enter Keyword or ID'' and select Search. Follow the instructions provided at the Submit a Comment screen. Please include your name, company name (if any) and [EIB–2014–0021] on any attached document.

Reference: AP088580XX.

Purpose And Use:

Brief description of the purpose of the transaction:

To support the export of U.S.-manufactured commercial aircraft to Ireland.

Brief non-proprietary description of the anticipated use of the items being exported:

To be used under operating lease for long-haul service between Indonesia

and other countries. To the extent that Ex-Im Bank is reasonably aware, the item(s) being exported are not expected to produce exports or provide services in competition with the exportation of goods or provision of services by a United States industry.

Parties:

Principal Supplier: The Boeing Company.

Obligor: ICBC International Financial Leasing Co., Ltd..

Guarantor(s): N/A.

Description of Items Being Exported: Boeing 777 aircraft.

Information on Decision: Information on the final decision for this transaction will be available in the ''Summary Minutes of Meetings of Board of Directors'' on *http://exim.gov/newsandevents/boardmeetings/board/.*

Confidential Information: Please note that this notice does not include confidential or proprietary business information; information which, if disclosed, would violate the Trade Secrets Act; or information which would jeopardize jobs in the United States by supplying information that competitors could use to compete with companies in the United States.

Kalesha Malloy,

Agency Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2014–06179 Filed 3–20–14; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Requirements Being Submitted to the Office of Management and Budget for Emergency Review and Approval

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communication Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before April 7, 2014. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A._Fraser@omb.eop.gov;* and to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** section below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *http://www.reginfo.gov/public/do/PRAMain*, (2) look for the section of the Web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: The Commission is requesting emergency OMB processing of the information collection requirements contained in this notice and has requested OMB approval by April 9, 2014.

OMB Control No.: 3060–1039.

Title: Nationwide Programmatic Agreement Regarding the Section 106 National Historic Preservation Act—Review Process, WT Docket No. 03–128.

Form No.: FCC Form 620 and 62, TCNS E-filing.

Type of Review: Revision of a currently approved collection.

Respondents: Business or Other For-Profit Entities; Not-For-Profit Institutions; State, Local or Tribal Government.

Number of Respondents and Responses: 13,500 respondents and 13,500 responses.

Estimated Time per Response: 5–20 hours.

Frequency of Response: Recordkeeping requirement; On occasion reporting requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Sections 1, 4(i), 303(q), 303(r), 309(a), 309(j) and 319 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 303(q), 303(r), 309(a), 309(j) and 319, Sections 101(d)(6) and 106 of the National Historic Preservation Act (NHPA) of 1966, 16 U.S.C. § 470a(d)(6) and § 470f, and Section 800.14(b) of the rules of the Advisory Council on Historic Preservation, 36 C.F.R. § 800.14(b).

Total Annual Burden: 97,929 hours.

Annual Cost Burden: $13,087,425.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: In general there is no need for confidentiality. On a case by case basis, the Commission may be required to withhold from disclosure certain information about the location, character, or ownership of a historic property, including traditional religious sites.

Needs and Uses: The Commission is seeking the approval of a revision to collection 3060–1039 from the Office of Management and Budget (OMB). This data is used by the FCC staff, State Historic Preservation Officers (SHPO), Tribal Historic Preservation Officers (THPO) and the Advisory Council of Historic Preservation (ACHP) to take such action as may be necessary to ascertain whether a proposed action may affects sites of cultural significance to tribal nations and historic properties that are listed or eligible for listing on the National Register as directed by Section 106 of the National Historic Preservation Act (NHPA) and the Commission's rules.

FCC Form 620, New Tower (NT) Submission Packet is to be completed

by or on behalf of applicants to construct new antenna support structures by or for the use of licensees of the FCC. The form is to be submitted to the State Historic Preservation Office (''SHPO'') or to the Tribal Historic Preservation Office (''THPO''), as appropriate, and the Commission before any construction or other installation activities on the site begins. Failure to provide the form and complete the review process under Section 106 of the NHPA prior to beginning construction may violate Section 110(k) of the NHPA and the Commission's rules.

FCC Form 621, Collocation (CO) Submission Packet is to be completed by or on behalf of applicants who wish to collocate an antenna or antennas on an existing communications tower or non-tower structure by or for the use of licensees of the FCC. The form is to be submitted to the State historic Preservation Office (''SHPO'') or to the Tribal Historic Preservation Office (''THPO''), as appropriate, and the Commission before any construction or other installation activities on the site begins. Failure to provide the form and complete the review process under Section 106 of the NHPA prior to beginning construction or other installation activities may violate Section 110(k) of the NHPA and the Commission's rules.

The Tower Construction Notification System (TCNS) is used by or on behalf of Applicants proposing to construct new antenna support structures, and some collocations, to ensure that Tribal Nations have the requisite opportunity to participate in review prior to construction. To facilitate this coordination, Tribal Nations have designated areas of geographic preference, and they receive automated notifications based on the site coordinates provided in the filing. Applicants complete TCNS before filing a 620 or 621 and all the relevant data is pre-populated on the 620 and 621 when the forms are filed electronically.

Federal Communications Commission.

Sheryl D. Todd,

Deputy Secretary.

[FR Doc. 2014–06261 Filed 3–20–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meetings

AGENCY: Federal Election Commission.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 79 FR 14512 (March 14, 2014).

DATE AND TIME: Tuesday, March 18, 2014 at 10:00 a.m.

PLACE: 999 E Street NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

CHANGES IN THE MEETING: The Commission will also discuss: FY 14 Management Plan

Individuals who plan to attend and require special assistance, such as sign language interpretation or other reasonable accommodations, should contact Shawn Woodhead Werth, Secretary and Clerk, at (202) 694–1040, at least 72 hours prior to the meeting date.

PERSON TO CONTACT FOR INFORMATION: Judith Ingram, Press Officer. Telephone: (202) 694–1220

Shawn Woodhead Werth,

Secretary and Clerk of the Commission.

[FR Doc. 2014–06097 Filed 3–20–14; 8:45 am]

BILLING CODE 6715–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than April 7, 2014.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Peter Page, Lamar, Colorado, in his capacity as independent trustee of three trusts: The Barth E. Whitham Trust No. 2, the Frank E. Whitham Trust #1, Barth E. Whitham Share, the Frank E. Whitham Trust #2, Barth E. Whitham Share, all of Morrison, Colorado; and Doug McKinney, Leoti, Kansas, in his capacity as independent trustee of the Stewart A. Whitham Trust #2,* Leoti, Kansas; to become members of the Whitham Control Group and thereby retain control of Whitcorp Financial Company, Leoti, Kansas, and thereby indirectly acquire Western State Bank, Garden City, Kansas, and Frontier Bank, Lamar, Colorado.

B. Federal Reserve Bank of Dallas (E. Ann Worthy, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *Sharon Bragg Clark,* De Leon, Texas, to acquire voting shares of F&M Bancshares, Inc., and thereby indirectly acquire Farmers and Merchants Bank, both of De Leon, Texas.

Board of Governors of the Federal Reserve System, March 18, 2014.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2014–06207 Filed 3–20–14; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Savings and Loan Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Home Owners' Loan Act (12 U.S.C. 1461 *et seq.*) (HOLA), Regulation LL (12 CFR Part 238), and Regulation MM (12 CFR Part 239), and all other applicable statutes and regulations to become a savings and loan holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a savings association and nonbanking companies owned by the savings and loan 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 application also will 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 HOLA (12 U.S.C. 1467a(e)). 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 10(c)(4)(B) of the HOLA (12 U.S.C. 1467a(c)(4)(B)). 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 April 21, 2014.

A. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street NE., Atlanta, Georgia 30309:

1. *Sunshine Bancorp, Inc.,* Plant City, Florida, to become a savings and loan holding company by acquiring of all of the outstanding voting shares of Sunshine State Federal Savings and Loan Association, both of Plant City, Florida. The savings and loan holding company will be formed in connection with the proposed mutual-to-stock conversion of Sunshine State Federal Savings and Loan Association, a federally chartered mutual savings bank.

Board of Governors of the Federal Reserve System, March 18, 2014.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2014–06208 Filed 3–20–14; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: HHS–OS–21329–30D]

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 revision of the approved information collection assigned OMB control number 0937–0198, scheduled to expire on June 30, 2015. 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 April 21, 2014.

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 document identifier HHS–OS–21329–30D for reference.

Information Collection Request Title: Public Health Service Policies on Research Misconduct (42 CFR part 93).

OMB No.: 0937–0198.

Abstract: This is a revision to a currently approved collection, Public Health Service Policies on Research Misconduct. The revision will include an additional form, called the Assurance of Compliance by Sub-Award Recipients form PHS–6315. The purpose of this form is to establish an assurance of compliance for a sub-award institution. The sub-awardee is also required to provide data from on the amount of research misconduct activity occurring in institutions conducting PHS supported research. Therefore, in addition this provides an annual assurance that the sub-award institution has established and will follow administrative policies and procedures for responding to allegations of research misconduct that comply with the Public Health Service (PHS) Policies on Research Misconduct (42 CFR part 93). Research misconduct is defined as receipt of an allegation of research misconduct and/or the conduct of an inquiry and/or investigation into such allegations. These data enable the ORI to monitor institutional sub-awardee's compliance with the PHS regulation.

Need and Proposed Use of the Information: Public Health Service Polices on Research Misconduct (42 CFR part 93)—OMB No 0937–0198–Revision—Office of Research Integrity. An additional form (6315 PHS Sub-ward recipient) has been added. Likely Respondents: Public Health Service (PHS) research sub-award recipient. 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.

ESTIMATED ANNUALIZED BURDEN TABLE

Forms (if necessary)	Type of respondent	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
PHS–6349	Awardee Institutions	6,096	1	10/60	1,016
PHS–6315	Sub-award Institution's	200	1	5/60	17
Total					1,033

Darius Taylor,

Deputy Information Collection Clearance Officer.

[FR Doc. 2014–06145 Filed 3–20–14; 8:45 am]

BILLING CODE 4150–28–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–14–0906]

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, 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

The Green Housing Study (OMB No. 0920–0906, Expiration 11–30–2014)—Extension—National Center for Environmental Health (NCEH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Centers for Disease Control and Prevention (CDC) is seeking a three-year extension of Office of Management and Budget (OMB) approval for the Green Housing Study information collection. The information collected will help scientists better understand whether green building design features reduce human exposures to chemical and biological agents in the home and/or improve respiratory health of children with asthma. This study directly supports the Healthy People 2020 Healthy Homes' health protection goal of the Centers for Disease Control and Prevention (CDC). This investigation is also consistent with CDC's Health Protection Research Agenda, which calls for research to identify the major environmental causes of disease and disability and related risk factors.

In 2011, CDC funded the first two study sites for the Green Housing Study; one location was in Boston and the other was in Cincinnati. In these two cities, renovations sponsored by the Department of Housing and Urban Development (HUD) had already been scheduled. By selecting sites in which renovations are already scheduled to occur, the CDC can leverage the opportunity to collect survey and biomarker data from residents and to collect environmental measurements in homes in order to evaluate associations between green housing and health. Site selection for future locations will continue in the same manner as used for the first two sites. During the next 3-year OMB approval cycle, funding is currently available for the addition of one more study site.

Although the first two study sites have provided insight into how specific green building practices (e.g., use of low chemical-emitting paints and carpets) can influence levels of substances in the home such as volatile organic compounds (VOCs), more study sites in different geographic locations will help scientists understand if these relationships hold in different climates and housing stock. The data collection period for the first two study sites was completed during the original 3-year OMB approval period. A total of 13 study sites are needed for statistical power to test associations between the exposures and outcomes measured in the Green Housing Study. This ongoing study provides a foundation upon which to explore the potential for green affordable housing to promote healthy homes principles.

Study participants will continue to include children with asthma and their mothers/primary caregiver living in HUD-subsidized housing that has either received a green renovation or is a comparison home (i.e., no renovation). This will be accomplished in a total of thirteen study sites across the United States. The following are eligible for the study: (1) Children (age 7–12 years with asthma and (2) mothers/primary caregivers. Children with asthma (ages 7–12 years) will donate blood samples (for assessment of allergy) and urine samples (for assessment of pesticide and VOC exposures). The children with asthma (ages 7–12 years) will be also tested for lung function and lung inflammatory markers. Additionally, nasal and throat swabs samples will be collected to assess for acute respiratory infections in the children with asthma. The length of follow-up is one year. Questionnaires regarding home characteristics and respiratory symptoms of the children will be administered at 1- to 6-month intervals. Environmental sampling of the air and dust in the respondents' homes will be conducted over a 1-year period [once in the home before rehabilitation (Baseline I), and then at three time points after rehabilitation has been completed: Baseline II, 6 months, and 12 months]. Environmental sampling includes measurements of air exchange rate, pesticides, VOCs, indoor allergens, fungi, temperature, humidity, and particulate matter.

To obtain sufficient statistical power, approximately 1,000 adults (mothers/primary caregivers) across a total of 13 study sites will complete the screening forms. We assume after screening, some children will not be eligible (roughly 17%). In summary, expected overall response rate could range from 69%–86% for the eligible participants in the study from screening through the end of data collection. The number and type of respondents that will complete the questionnaires are 832 mothers/primary caregivers of enrolled children with asthma (ages 7–12 years). All health and environmental exposure information about children will be provided by their mothers/primary caregivers (i.e., no children will fill out questionnaires).

Since the study began in 2011, preliminary data from the first two study sites have been presented at national and international meetings and conferences (the 2012 and 2013 International Society of Exposure Science, the 2012 California Asthma Summit, the 2013 Chicago Asthma Consortium's Asthma and Housing Conference, and the 2014 American Academy of Allergy, Asthma, and Immunology).

There is no cost to the respondents other than their time to participate in the study. The total estimated annual burden hours inclusive of all 13 study sites equals 2,356.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Mothers/primary caregivers of children with asthma.	Screening Questionnaire	1,000	1	10/60	167
Mothers/primary caregivers of enrolled children.	Baseline Questionnaire (Home Characteristics).	832	1	15/60	208
Mothers/primary caregivers of enrolled children.	Baseline (Part 2) Questionnaire (Home Characteristics).	832	1	5/60	69
Mothers/primary caregivers of enrolled children.	Baseline Questionnaire (Demographics).	832	1	5/60	69
Mothers/primary caregivers of enrolled children.	Baseline Questionnaire (Children 7–12 with Asthma).	832	1	15/60	208
Mothers/primary caregivers of enrolled children.	Text Messages (Children 7–12 with Asthma).	832	8	1/60	111
Mothers/primary caregivers of enrolled children.	3 and 9-month Follow-up Questionnaire (Children 7–12 with Asthma).	832	2	5/60	139
Mothers/primary caregivers of enrolled children.	6 and 12-month Follow-up Questionnaire (Environment).	832	2	10/60	277
Mothers/primary caregivers of enrolled children.	6 and 12-month Follow-up Questionnaire (Children 7–12 with Asthma).	832	2	10/60	277
Mothers/primary caregivers of enrolled children.	Time/Activity Questionnaire (Children with Asthma 7–12 years).	832	4	5/60	277
Mothers/primary caregivers of enrolled children.	Time/Activity Questionnaire (Mother/Primary Caregiver).	832	4	5/60	277
Mothers/primary caregivers of enrolled children.	Illness Checklist	832	4	5/60	277
Total					2,356

LeRoy Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2014–06219 Filed 3–20–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–14–0890]

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

HIV/AIDS Awareness Day Programs (0920–0890 exp. 06/30/2014)—Extension—National Center for HIV/AIDS, Viral Hepatitis, STD, and Tuberculosis Prevention (NCHHSTP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

CDC is requesting Office of Management and Budget (OMB) approval of a 3-year extension to administer surveys to respondents who plan HIV/AIDS day awareness activities during the next three years. The name and dates for the annual HIV/AIDS awareness day campaigns are: National Black HIV Awareness Day—February 7th; National Native HIV/AIDS Awareness Day—March 20th; National Asian and Pacific Islander HIV/AIDS Awareness Day—May 19th; and National Latino AIDS Awareness Day—October 15th.

The purpose of the surveys is to assess the number and types of HIV/AIDS prevention activities planned and implemented in observance of each of the four noted HIV/AIDS awareness day campaigns. This extension is required to continue the work of HIV/AIDS in among the African American, Native American, Latino, and Asian Pacific Islander populations. Each of the awareness days have reached a landmark year. This has been done through national outreach and mobilization efforts towards their targeted populations as well as awareness to the general population about HIV/AIDS issues that impact their communities.

The importance of each day has been demonstrated in reaching beyond traditional audience. This has been done by collaborating with agencies and organizations who serve the public health in areas affected by HIV/AIDS. A more proactive role has been shared between each of the planning committees and the communities they serve. Testing and linkage to care has been a staple for each of the days. Also, each of the groups has fully used online resources to provide information and network with individuals and groups to help with their perspective cause(s).

After the date that each campaign occurs, the event planners will be asked to respond to a computer-based survey to collect qualitative data. They will go to the designated Web sites to review information about the campaigns and go to the section that allows them to enter information about their particular event. For example, the event planners will be asked to note the kind of events that they planned. The survey results are necessary to understand how and where

HIV/AIDS awareness activities are planned and implemented.

These survey results will provide important information that will be used to develop HIV/AIDS prevention activities. The computer-based surveys take up to one hour.

There are no costs to the respondents other than their time. The total estimated annual burden hours are 375.

ESTIMATED ANNUALIZED BURDEN HOURS

Respondents	Form name	Number of respondents	Responses per respondent	Average burden per response (In hours)
African-American HIV/AIDS awareness day activity planners.	National Black HIV/AIDS Awareness Day Evaluation Report.	200	1	1
Asian and Pacific Islander HIV/AIDS awareness day activity planners.	National Asian & Pacific Islander HIV/AIDS Awareness Day Evaluation Report.	15	1	1
Latino HIV/AIDS awareness day activity planners.	National Latino AIDS Awareness Day Evaluation Report.	125	1	1
Native HIV/AIDS awareness day activity planners.	National Native HIV/AIDS Awareness Day Evaluation Report.	35	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. 2014–06218 Filed 3–20–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–5512–N]

Medicare Program; Request for Applications for the Medicare Care Choices Model

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

ACTION: Notice.

SUMMARY: This notice informs interested parties of an opportunity to apply for participation in the Medicare Care Choices Model. The primary goal of the Medicare Care Choices Model is to test whether Medicare beneficiaries who meet Medicare hospice eligibility requirements would elect hospice if they could continue to seek curative services.

DATES: Applications will be considered timely if they are received on or before June 19, 2014.

Applications received after this date will not be considered. Applicants must submit their application in a manner that provides proof of timely delivery, for example, FedEx, UPS, or USPS Express Mail. It is the applicant's responsibility to be able to prove delivery of the complete application by the due date.

ADDRESSES: Applications should be mailed to the following address: Centers for Medicare & Medicaid Services, Center for Medicare and Medicaid Innovation, Attention: Cindy Massuda, Mail Stop: WB–06–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

FOR FURTHER INFORMATION CONTACT: Cindy Massuda at (410) 786–0652 or Georganne Kuberski at (410) 786–0799 or by email at address: *CareChoices@cms.hhs.gov.*

The Innovation Center Web site at *http://innovation.cms.gov/.*

SUPPLEMENTARY INFORMATION:

General Information: In submitting application, refer to file code (CMS–5512–N).

Application requirements: Applications must be typed for clarity with a minimum font size of 12 using Microsoft Word and should not exceed 40 double-spaced pages, exclusive of cover letter, the executive summary, resumes, and letters of engagement from referring providers. Follow guidance in this Request for Application for elements to include in the application, specifically those elements outlined in the selection criteria.

Submission of Application: Applicants must submit a total of 10 hard copies printed single-sided with page numbers in the bottom right-hand corner to ensure that each reviewer receives an application in the manner intended by the applicant (for example, collated, tabulated, or color copies). Applicants must designate 1 copy as the official proposal. Applicants must provide 10 hard copies and 1 electronic copy saved onto a USB flash drive of the full application as the basic requirement of what constitutes submission of an application. Hard copies and electronic copies must be identical.

Note: We will not accept applications by any other means such as facsimile (FAX) transmission or by email.

Eligible Organizations: Eligible providers for this Model are Medicare certified and enrolled hospice programs based on their Medicare provider number, in good standing and of all sizes, located in a mix of rural and urban areas that are experienced in care coordination with their referring network of providers.

I. Background

The Center for Medicare and Medicaid Innovation (Innovation Center), within the Centers for Medicare & Medicaid Services (CMS), was created to test innovative payment and service delivery models to reduce program expenditures while preserving or enhancing the quality of care for Medicare, Medicaid, and Children's Health Insurance Program beneficiaries.

We are interested in identifying models designed to improve care for specific populations. One such population is terminally ill Medicare beneficiaries who qualify for, but do not elect to use the hospice benefit until late in their disease process. There is evidence that providing hospice care to terminally ill Medicare beneficiaries can reduce program expenditures while improving beneficiary satisfaction. Despite this evidence, only 44 percent of Medicare beneficiaries reach the end of life while using the hospice benefit, and most use the benefit for only a short period of time. While the average length of stay on Medicare hospice has grown over time, the median length of stay has remained stable at about 17 days. The hospice industry and other stakeholders often cite the requirement to forgo curative treatment as a primary reason patients do not elect hospice until the final days of their lives.

The Medicare Care Choices Model design is based on established relationships hospices have with their referring network of providers. Many hospices already have care coordination programs in place to coordinate hospice support services with the curative care services. This Model leverages those established relationships to allow Medicare to test and evaluate this care coordination concept.

The Medicare Care Choices Model seeks to test whether traditional Medicare beneficiaries with certain types of advanced cancers, congestive heart failure (CHF), human immunodeficiency virus (HIV), and chronic obstructive pulmonary disease (COPD) who meet Medicare hospice eligibility requirements under either the Medicare or Medicaid Hospice Benefit would elect to receive hospice supportive services earlier in their disease trajectories if they could continue to seek curative services. The Model will evaluate whether there are associated improvements in patient care, patient and family or caregiver satisfaction with care, and quality of life at the end-of-life.

II. Provisions of This Notice

The Medicare Care Choices Model participating hospices will use care coordination services both within the hospice and between the hospice and other providers and suppliers to effectively manage hospice-eligible Medicare beneficiaries and report process and outcome measures on their results. The Medicare Care Choices Model participating hospices will be paid a $400 per beneficiary per month fee for certain hospice support services furnished to traditional fee-for-service Medicare beneficiaries who are hospice eligible and meet the criteria stated in the Request for Application (RFA).

In selecting hospices to participate in the program, CMS seeks eligible beneficiaries from a mix of rural and urban areas representing Medicare hospices of all sizes. These hospice providers must demonstrate experience with care coordination between providers including physicians, hospitals, pharmacies, DME suppliers, other suppliers, and skilled nursing facilities.

We expect to select at least 30 Medicare certified and enrolled hospices based on their Medicare provider number to participate in the Medicare Care Choices Model. The Medicare Care Choices Model period of performance will be 3 years. Applicants must present evidence that their network of referring providers is capable of successfully identifying beneficiaries who meet the Medicare Care Choice Model eligibility requirements. Applicants are required to provide a detailed narrative with supporting documentation describing the beneficiary population they intend to serve, how services will be provided, the quality measures in place and planned, and the number of beneficiaries expected for each year of the 3-year Medicare Care Choices Model period.

CMS will use a competitive process to select eligible organizations to participate in the Medicare Care Choices Model. We will accept timely applications in the standard format outlined in the Medicare Care Choices Model RFA in order to be considered for review by an internal technical panel. Applications that are not received in this format will not be considered for review.

For more specific details regarding the Medicare Care Choices Model (including the RFA), we refer applicants to the informational materials on the Innovation Center Web site at: *http://innovation.cms.gov/.* Applicants are responsible for monitoring the Web site to obtain the most current information available.

III. Collection of Information Requirements

Section 1115A(d)(3) of the Act, as added by section 3021 of the Affordable Care Act, states that chapter 35 of title 44, United States Code (the Paperwork Reduction Act of 1995), shall not apply to the testing and evaluation of models or expansion of such models under this section. Consequently, this document 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).

Dated: November 14, 2013.

Marilyn Tavenner,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2014–06158 Filed 3–18–14; 4:15 pm]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension of Certification on Maintenance of Effort for the Title III and Minor Revisions to the Certification of Long-Term Care Ombudsman Program Expenditures

AGENCY: Administration for Community Living, HHS.

ACTION: Notice.

SUMMARY: The Administration for Community Living (ACL) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection requirements relating to the Certification on Maintenance of Effort under Title III and Certification of Long-Term Care Ombudsman Program Expenditures for OAA Title III and Title VII Grantees.

DATES: Submit written or electronic comments on the collection of information by May 20, 2014.

ADDRESSES: Submit electronic comments on the collection of information to: *BeckyKurtz@aoa.hhs.gov.* Submit written comments on the collection of information to Administration for Community Living, Washington, DC 20201, attention Becky Kurtz.

FOR FURTHER INFORMATION CONTACT: Becky Kurtz, National Long Term Care Ombudsman, Administration for Community Living, Washington, DC 20201.

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 request or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in

the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, ACL is publishing notice of the proposed collection of information set forth in this document. With respect to the following collection of information, ACL invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of ACL's functions, including whether the information will have practical utility; (2) the accuracy of ACL's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques when appropriate, and other forms of information technology.

The Certification on Maintenance of Effort under Title III and Certification of Long-Term Care Ombudsman Program Expenditures provides statutorily required information regarding state's contribution to programs funded under the Older Americans Act and conformance with legislative requirements, pertinent Federal regulations and other applicable instructions and guidelines issued by ACL. This information will be used for Federal oversight of Title III Programs and Title VII Ombudsman Program expenditures.

ACL estimates the burden of this collection of information as follows: 56 State Agencies on Aging respond annually which should be an average burden of one half (1/2) hour per State agency per year or a total of twenty-eight hours for all state agencies annually. The proposed data collection tools may be found on the AoA Web site for review at *http://www.aoa.gov/AoARoot/AoA_Programs/Tools_Resources/Cert_Forms.aspx.*

Date: March 14, 2014.

Kathy Greenlee,

Administrator and Assistant Secretary for Aging.

[FR Doc. 2014–06201 Filed 3–20–14; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2014–0101]

Area Maritime Security Advisory Committee (AMSC), Eastern Great Lakes and Regional Sub-Committee Vacancies

AGENCY: Coast Guard, DHS.

ACTION: Notice of solicitation for membership.

SUMMARY: This notice requests individuals interested in serving on the Area Maritime Security Committee (AMSC), Eastern Great Lakes, and the four regional sub-committees: Northeast Ohio Region, Northwestern Pennsylvania Region, Western New York Region, and Eastern New York Region to submit their applications for membership to the Captain of the Port (COTP), Buffalo. The Committee assists the Captain of the Port, Buffalo, in developing, reviewing, and updating the Area Maritime Security Plan for their area of responsibility.

DATES: Requests for membership should reach the U.S. Coast Guard Captain of the Port, Buffalo, on April 21, 2014.

ADDRESSES: Applications for membership should be submitted to the Captain of the Port at the following address: Captain of the Port, Buffalo, Attention: LCDR Elizabeth Platt, 1 Fuhrmann Boulevard, Buffalo, NY 14203–3189.

FOR FURTHER INFORMATION CONTACT: For questions about submitting an application, or about the AMSC in general, contact:

For the Northeast Ohio Region Executive Coordinator: Mr. Peter Killmer at 216–937–0136;

For the Northwestern Pennsylvania Region Executive Coordinator: Mr. Joseph Fetscher at 216–937–0126;

For the Western New York Region; LCDR Elizabeth Platt at 716–843–9373; and,

For the Eastern New York Region Executive Coordinator: Mr. Ralph Kring at 315–343–1551.

SUPPLEMENTARY INFORMATION:

Authority

Section 102 of the Maritime Transportation Security Act (MTSA) of 2002 (Pub. L. 107–295) added section 70112 to Title 46 of the U.S. Code, and authorized the Secretary of the Department in which the Coast Guard is operating to establish Area Maritime Security Advisory Committees (AMSCs) for any port area of the United States. (See 33 U.S.C. 1226; 46 U.S.C.; 33 CFR 1.05–1, 6.01; Department of Homeland Security Delegation No. 0170.1). The MTSA includes a provision exempting these AMSCs from the Federal Advisory Committee Act (FACA), Public Law 92–436, 86 Stat. 470 (5 U.S.C. App.2). The AMSCs shall assist the Captain of the Port in the development, review, update, and exercising of the AMS Plan for their area of responsibility. Such matters may include, but are not limited to: Identifying critical port infrastructure and operations; Identifying risks (threats, vulnerabilities, and consequences); Determining mitigation strategies and implementation methods; Developing and describing the process to continually evaluate overall port security by considering consequences and vulnerabilities, how they may change over time, and what additional mitigation strategies can be applied; and Providing advice to, and assisting the Captain of the Port in developing and maintaining the Area Maritime Security Plan.

AMSC Membership

Members of the AMSC should have at least five years of expertise related to maritime or port security operations. The AMSC Eastern Great Lakes Committee has 107 members. The Northeast Ohio Region Subcommittee has 29 members. The Northwestern Pennsylvania Region Subcommittee has 29 members. The Western New York Region has 29 members. The Eastern New York Region has 20 members. We are seeking to fill the following vacancies with this submission:

(A) Northeast Ohio Region (2 members): (1) Executive Board member representing the maritime (on-water) Port Harbormaster community of Northeast Ohio {e.g., qualified harbormasters operating in local ports [list not all inclusive] of Vermilion, Lorain, Cleveland, Fairport Harbor, Ashtabula, Conneaut, etc.}; and (2) Executive Board member representing the surface transportation railroad industry (RAIL), especially expert candidates working for critical railroad infrastructure with a nexus to the maritime domain.

(B) Northwestern Pennsylvania Region (1 member): Executive Board member representing local MTSA regulated, 33 CFR 104, vessels of Northwestern Pennsylvania.

(C) Western New York Region (3 members): (1) Executive Board member to serve as Chairperson of the regional subcommittee and concurrently as member of the Eastern Great Lakes AMSC when so convened by the FMSC.

Executive; (2) Executive Board member representing the surface transportation railroad industry (RAIL), especially expert candidates working for critical railroad infrastructure with a nexus to the maritime domain; (3) Board member representing local MTSA regulated, 33 CFR 104, vessels of Western New York.

(D) Eastern New York Region (1 member): Executive Board member to serve as Co- Vice Chairperson of the regional subcommittee and concurrently as member of the Eastern Great Lakes AMSC when so convened by the FMSC.

Applicants may be required to pass an appropriate security background check prior to appointment to the committee. Applicants must register with and remain active as Coast Guard HOMEPORT users if appointed. Members' terms of office will be for five years; however, a member is eligible to serve additional terms of office. Members will not receive any salary or other compensation for their service on an AMSC. In accordance with 33 CFR 103, members may be selected from—the Federal, Territorial, or Tribal governments; the State government and political subdivisions of the State; local public safety, crisis management, and emergency response agencies; law enforcement and security organizations; maritime industry, including labor; other port stakeholders having a special competence in maritime security; and port stakeholders affected by security practices and policies.

In support of the USCG policy on gender and ethnic diversity, we encourage qualified women and members of minority groups to apply.

Request for Applications

Those seeking membership are not required to submit formal applications to the local Captain of the Port, however, because we do have an obligation to ensure that a specific number of members have the prerequisite maritime security experience, we encourage the submission of resumes highlighting experience in the maritime and security industries.

Dated: February 26, 2014.

B.W. Roche,

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

[FR Doc. 2014–06253 Filed 3–20–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5758–N–05]

60-Day Notice of Proposed Information Collection: Rural Innovation Fund Evaluation Data Collection

AGENCY: Office of the Assistant Secretary for Policy Development & Research, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* May 20, 2014.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–5564 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Rural Innovation Fund Evaluation Data Collection.

OMB Approval Number: N/A.

Type of Request: New.

Form Number: None.

Description of the need for the information and proposed use: This information will be used in the evaluation of the Rural Innovation Fund (RIF) which is the successor program to the Rural Housing and Economic Development (RHED) Program. The RIF provides larger grant amounts and places a greater emphasis on leverage than the RHED. This evaluation aims to determine if these two major differences provide for economies of scale or program sustainability, and what the overall program outcomes and impacts are.

Respondents: Rural nonprofit housing and community development organizations and corporations and federally recognized Indian tribes, state housing finance agencies and state economic development agencies.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
RHED Telephone Interviews	50	1	1	1.5	75	$110	$8250
RIFHED Telephone Interviews	50	1	1	1.5	76.5	110	8415
Site Visits	15	1	1	16	240	278	66720

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: 12 U.S.C. 1701z–1 Research and Demonstrations.

Dated: March 14, 2014.

Jean Lin Pao,

General Deputy Assistant Secretary for Policy Development and Research.

[FR Doc. 2014–06246 Filed 3–20–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5750–N–12]

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 use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Juanita Perry, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7266, 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 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, and suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for ''off-site use only'' recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Theresa Ritta, Ms. Theresa M. Ritta, Chief, Real Property Branch, the Department of Health and Human Services, Room 5B–17, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–2265 (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Ann Marie Oliva at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (i.e., acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: AGRICULTURE: Ms. Debra Kerr, Department of Agriculture, Reporters Building, 300 7th Street SW., Room 300, Washington, DC 20024, (202) 720–8873; AIR FORCE: Ms. Connie Lotfi, Air Force Real Property Agency, 143 Billy Mitchell Blvd., San Antonio, TX 78226, (210) 925–3047; ARMY: Ms. Veronica Rines, Office of the Assistant Chief of Staff for Installation Management, Department of Army, Room 5A128, 600 Army Pentagon, Washington, DC 20310, (571) 256–8145; COE: Mr. Scott Whiteford, Army Corps of Engineers, Real Estate, CEMP–CR, 441 G Street NW., Washington, DC 20314; (202) 761–5542; ENERGY: Mr. David Steinau, Department of Energy, Office of Property Management, 1000 Independence Ave. SW., Washington, DC 20585, (202) 287–1503; GSA: Mr. Flavio Peres, General Services Administration, Office of Real Property Utilization and Disposal, 1800 F Street NW., Room 7040, Washington, DC 20405, (202) 501–0084; INTERIOR: Mr. Michael Wright, Acquisition & Property Management, Department of the Interior, 3960 N. 56th Ave. #104, Hollywood, FL 33021; (443) 223–4639; NASA: Mr. Frank T. Bellinger, Facilities Engineering Division, National Aeronautics & Space Administration, Code JX, Washington, DC 20546, (202) 358–1124; NAVY: Mr. Steve Matteo, Department of the Navy, Asset Management Division, Naval Facilities Engineering Command, Washington Navy Yard, 1330 Patterson Ave. SW., Suite 1000, Washington, DC 20374; (202) 685–9426 (These are not toll-free numbers).

Dated: March 13, 2014.

Mark Johnston,

Deputy Assistant Secretary for Special Needs.

TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM, FEDERAL REGISTER REPORT FOR 03/21/2014

Suitable/Available Properties

Building

Alaska

9 Buildings
JBER–E
Anchorage AK 99506
Landholding Agency: Air Force
Property Number: 18201240030
Status: Unutilized
Directions: 5374, 59122, 59348,76520,16519,16521,9570,7179,8197
Comments: off-site removal only; sf. varies; moderate conditions; restricted area; contact AF for more info. on a specific property & accessibility/removal requirements

4 Buildings
JBER
JBER AK 99506
Landholding Agency: Air Force
Property Number: 18201310014
Status: Unutilized
Directions: 10449, 27369, 33855, 35750
Comments: off-site removal only; sf. varies; moderate conditions; restricted area; contact AF for more info. on a specific property & accessibility/removal requirements

Building 6260
Arctic Warrior Dr.
JBER AK 99506
Landholding Agency: Air Force
Property Number: 18201310015
Status: Unutilized
Comments: off-site removal only; 75,720 sf.; Admin./Storage; moderate conditions; restricted area; contact AF for info. on accessibility/removal requirements

3 Buildings
Gibson Ave.
JBER AK 99506
Landholding Agency: Air Force
Property Number: 18201310016
Status: Unutilized
Directions: 6252, 6257, 7263
Comments: off-site removal only; sf. varies; storage; moderate conditions; restricted area; contact AF for more info. requirements

2 Buildings
Industrial Ave.
Eielson AFB AK 99702
Landholding Agency: Air Force
Property Number: 18201310030
Status: Unutilized
Directions: 6213, 6214
Comments: off-site removal only; sf. varies; major repairs needed; contact AF for more info. on a specific property & accessibility/removal requirements

Building 400
Main Street
King Salmon Airport AK
Landholding Agency: Air Force
Property Number: 18201320079
Status: Unutilized
Comments: 1,408 sf.; storage; 29 yrs. old; moderate conditions; periodic flooding (next to Naknek River)

Building 715
Fuel Lane
King Salmon Airport AK
Landholding Agency: Air Force
Property Number: 18201320082
Status: Unutilized
Comments: 256 sf.; fuel building; 24+ months vacant; deteriorated; contamination

Building 720
Fuel Lane
King Salmon Airport AK
Landholding Agency: Air Force
Property Number: 18201320083
Status: Unutilized
Comments: 285 sf.; fuel building; 24+ months vacant; deteriorated; periodic flooding (next to Naknek River)

14 Buildings
Seward Recreation Camp
Seward AK 99664
Landholding Agency: Air Force
Property Number: 18201330010
Status: Excess
Directions: 100,101,104,300,301,303,302,304, 305,306,307,308,309,310
Comments: off-site removal only; sf. varies; 9+ months vacant; moderated conditions; contact Air Force for more info. on a specific property and removal requirements

California

Batterson Kitchen (FS28016)
43060 Hwy 41
Oakhurst CA
Landholding Agency: Agriculture
Property Number: 15201410009
Status: Excess
Comments: 1,047 sq. ft.; 30+ yrs. old; security concerns; contact Agriculture for more information

Building 1028
19338 North St.
Beale CA 95903
Landholding Agency: Air Force
Property Number: 18201240009
Status: Unutilized
Comments: 178 sf.; storage; poor conditions; asbestos & lead; restricted area; contact AF for info. on accessibility requirements

Building 2153
6900 Warren Shingle
Beale AFB CA 95903
Landholding Agency: Air Force
Property Number: 18201240010
Status: Unutilized
Comments: 4,000; very poor conditions; asbestos & lead possible; restricted area; contact AF for info. on accessibility requirements

Former Mather AFB
Former Mather AFB
Rancho Cordova CA 95655
Landholding Agency: Air Force
Property Number: 18201310064
Status: Excess
Directions: includes five bldgs. and land; bldgs. #: 1703, 1705, 1706, 1707, 1708
Comments: previously reported in 1992; total sf.: 191,446; sits on 15 acres; used for: residential; good condition

Colorado

6 Buildings
GJKZ
Fairchild AFB CO 99011
Landholding Agency: Air Force
Property Number: 18201320042
Status: Underutilized
Directions: 1478, 1479, 1480,1482,1483,1484
Comments: off-site removal only; no future AF need; sf. varies; w/inactive military installation; contact AF for removal/accessibility requirements

Florida

Insect Attractant Lab
14683; Site 01
Ft. Lauderdale FL 33314
Landholding Agency: Agriculture
Property Number: 15201410011
Status: Excess
Comments: off-site removal only; 160 sq. ft.; lab/trailer; fair conditions; contact Agriculture for more information

Office Trailer—662900B015
14683; Site 01
Ft. Lauderdale FL 33314
Landholding Agency: Agriculture
Property Number: 15201410012
Status: Excess
Comments: off-site removal only; 720 sq. ft.; office/trailer; 16+ yrs. old; good conditions; contact Agriculture for more information

Building 5002
6801 Hwy 98
Tyndall AFB FL 32403
Landholding Agency: Air Force
Property Number: 18201310010
Status: Unutilized
Comments: 151 sf.; water pump station; 6 months vacant; major repairs; restricted area; contact AF for info. on accessibility requirements

2 Buildings
Cocoa Beach Tracking Annex
Cocoa Beach FL 32931
Landholding Agency: Air Force
Property Number: 18201340040
Status: Unutilized
Directions: 00001 (59 sq. ft.); 00002 (1,030 sq. ft.)
Comments: 56+ yrs. old; 24+ months vacant; launch support; fair conditions; contact Air Force for more info.

Georgia

5 Buildings
Moody Air Force Base
Moody GA 31699
Landholding Agency: Air Force
Property Number: 18201330006
Status: Underutilized
Directions: 1703 (853 sf.); 907 & 908 (9,186 sf. each); 662 & 754 (10,240 sf. each)
Comments: Very poor conditions; 50–70 yrs. old; contamination; secured area; transferee will need escort each time to access property; contact Air Force for more info.

Illinois

6 Buildings
Granite City USARC
Granite City IL 62040
Landholding Agency: Army
Property Number: 21201410040
Status: Unutilized

Directions: 401 (3,194 sq. ft.); 402 (4,913 sq. ft.); 403 (1,474 sq. ft.); 413 (739 sq. ft.); 434 (249 sq. ft.); 416 (1,387 sq. ft.)
Comments: off-site removal only; no future agency need; dissemble may be required; poor conditions; secured area; contact Army on a specific property & accessibility/removal requirements

2 Buildings
Phillip H. Sheridan Reserve Center
Ft. Sheridan IL 60037
Landholding Agency: Army
Property Number: 21201410041
Status: Underutilized
Directions: 564 (4,840 sq. ft.); 5659840 sq. ft.)
Comments: off-site removal only; no future agency need; dissemble may be required; fair conditions; asbestos; secured area; contact Army for more info. on a specific property & accessibility/removal requirements

2 Buildings
Joliet USARC/JTA
Elwood IL 60421
Landholding Agency: Army
Property Number: 21201410042
Status: Unutilized
Directions: JT837 (4,000 sq. ft.); JT834 (4,000 sq. ft.)
Comments: off-site removal only; no future agency need; dissemble may be required; poor conditions; contact Army for more info. on a specific property & accessibility/removal requirements

JT836
Joliet USARC/JTA
Elwood IL 60421
Landholding Agency: Army
Property Number: 21201410043
Status: Unutilized
Comments: off-site removal only; 4,000 sq. ft.; no future agency need; dissemble may be required; 47+ yrs. old; storage; poor conditions; secured area; contact Army re: accessibility/removal requirements

Lake Shelbyville Project
St. Louis District
Shelbyville IL 62565
Landholding Agency: COE
Property Number: 31201410005
Status: Unutilized
Comments: 120 sq. ft.; booth to register campers; 1+ month vacant; extremely poor conditions; contact COE for more information

St. Louis District
Lake Shelbyville Project Office
Shelbyville IL 62565
Landholding Agency: COE
Property Number: 31201410006
Status: Underutilized
Comments: one story comfort station; built 1977; extremely poor conditions; contact COE for more information

Indiana

B708 Air Surveillance Radar
Grissom ARB
Peru IN 46970
Landholding Agency: Air Force
Property Number: 18201410021
Status: Excess
Comments: 1,028 sq. ft.; 47+ yrs. old; moderate conditions; asbestos

Louisiana

Building 117
Naval Air Station Joint Reserve Base
New Orleans LA 70143
Landholding Agency: Air Force
Property Number: 18201330046
Status: Excess
Comments: 3,975 sf.; storage; deteriorated; secured area; background check/pass required; contact Air Force for more info. re.; accessibility requirements

Building 019
Naval Air Station Joint Reserve Base
New Orleans LA 70143
Landholding Agency: Air Force
Property Number: 18201330050
Status: Excess
Comments: 3,038 sq. ft.; storage; deteriorated; secured area; official ID required; contact Air Force for more information

Massachusetts

3 Buildings
Hudson Rd.
Sudbury MA
Landholding Agency: Air Force
Property Number: 18201310026
Status: Excess
Directions: 01, 04, 05
Comments: sf. varies; lab; fair conditions; restricted area; contact AF for info. on accessibility requirements

Massachusetts

7 Buildings
Westover ARB
Chicopee MA 01022
Landholding Agency: Air Force
Property Number: 18201320062
Status: Underutilized
Directions: 7701, 7704, 7706, 7707, 2426, 2765, 7700
Comments: Off-site removal only; no future AF need; sf. varies; adequate to very poor conditions; contamination; restricted area; escort required; contact AF for more info.

Michigan

3 Buildings
Selfridge ANGB
Selfridge MI 48045
Landholding Agency: Air Force
Property Number: 18201220020
Status: Unutilized
Directions: 326, 780, 710
Comments: off-site removal only; sf varies; office/school/barracks; fair conditions; need repairs.

Mississippi

Building 112
CRTC Gulfport
Gulfport MS 39507
Landholding Agency: Air Force
Property Number: 18201330041
Status: Excess
Comments: 90 sf.; ATM bldg.; good conditions; contact Air Force for more info.

Missouri

13 Buildings
Weldon Springs USARC
St. Charles MO 63304
Landholding Agency: Army
Property Number: 21201410044
Status: Unutilized
Directions: 002S9 (490 sq. ft.); G0043 (1,840 sq. ft.); RN001 (7,500 sq. ft.); RN002 (102 sq. ft.); RN003 (450 sq. ft.); RN004 (1 sq. ft.); RN005 (800 sq. ft.); RN006 (320 sq. ft.); RN007 (1,650 sq. ft.); RN008 (266 sq. ft.); RN009 (400 sq. ft.); RN0010 (500 sq. ft.); S0009 (468 sq. ft.)
Comments: off-site removal only; no future agency need; dissemble may be required; poor conditions; secured area; contact Army for on a specific property & accessibility/removal requirements.

New York

Former SSG Robert H. Dietz
US Army Reserve Center
114 Flatbush Ave.
Kingston NY 12401
Landholding Agency: GSA
Property Number: 54201410010
Status: Excess
GSA Number: 1–D–NY–0970–AA
Directions: Landholding Agency: Army; Disposal: GSA; office/admin. bldg. (11,962 sq. ft.); org. maint. bldg. (2,572 sq. ft.); heat/storage bldg. (2,645 sq. ft.)
Comments: 16,909 total sq. ft.; vacant since 2012; fair conditions; access by appt. only; contact GSA for more information.

Oklahoma

Building 267
7576 Sentry Blvd.
Tinker AFB OK 73145
Landholding Agency: Air Force
Property Number: 18201310039
Status: Unutilized
Comments: off-site removal only; 6,892 sf.; vehicle parking shed; fair conditions; restricted area; contact AF for info. on accessibility/removal requirements.

Building 1100
7492 Patrol Road
Tinker AFB OK 73145
Landholding Agency: Air Force
Property Number: 18201320024
Status: Underutilized
Comments: off-site removal only; no future AF need; 5,471 sf.; maint. facility; fair/poor condition; controlled AF installation, contact AF for more info.

Building 944
4600 Air Depot Blvd.
Tinker AFB OK 73145
Landholding Agency: Air Force
Property Number: 18201320026
Status: Underutilized
Comments: off-site removal only; no future AF need; 2,400 sf.; warehouse; fair/poor condition; controlled AF installation; contact AF for info. re: accessibility/removal.

Building 1111
Tinker AFB
Tinker OK 73145
Landholding Agency: Air Force
Property Number: 18201330028
Status: Unutilized
Comments: off-site removal only; no future agency need; 231 sf.; utility bldg.; generally good conditions; secured area; contact Air Force for more info.

2 Buildings
Tinker AFB
Tinker OK 73145
Landholding Agency: Air Force
Property Number: 18201330029
Status: Unutilized

Directions: 1072,901
Comments: off-site removal only; no agency need; poor conditions; secured area; contact Air Force for info. on a specific property & removal requirements.

Building 183
Altus AFB AGGN
Altus OK 73523
Landholding Agency: Air Force
Property Number: 18201340001
Status: Unutilized
Comments: 167 sq. ft.; no bathroom; secured area; escort required each time to access property; asbestos; contact Air Force for more info.

Oregon

Frazier Hazmat Building
1774.009091
07655 00 Umatilla Nat'l Forest Frazier Base
Umatilla OR 97880
Landholding Agency: Agriculture
Property Number: 15201410015
Status: Excess
Comments: off-site removal only; 207 sq. ft.; 19+ yrs. old; roof leaks; contamination; secured area; contact Agriculture for more information.

Dexter Reservoir
Fish Facility
Dexter OR
Landholding Agency: COE
Property Number: 31201410002
Status: Underutilized
Directions: House: 100 sq. ft.; 2 sheds: each 68 sq. ft.
Comments: poor conditions; contact COE for more information.

Puerto Rico

Muniz IAP
200 JoseA (Tony) Santana Ave.
Corolina PR 09879
Landholding Agency: Air Force
Property Number: 18201320069
Status: Unutilized
Comments: 755 sf.; potable water storage & pumphouse; poor conditions; secured area; escort required to access property; contact AF for more info.

South Carolina

2 Building
Shaw AFB
Sumter SC 29152
Landholding Agency: Air Force
Property Number: 18201320054
Status: Unutilized
Directions: 1036, 1826
Comments: off-site removal only; no AF future need; sf. varies; poor conditions; secured area, contact AF for more info.

South Carolina

4 Buildings
Shaw AFB
Sumter SC 29152
Landholding Agency: Air Force
Property Number: 18201320055
Status: Underutilized
Directions: 1027, 1028, 2451, 1034
Comments: off-site removal only; no AF future need; sf. varies; poor conditions; secured area; contact AF for more info.

Building 1036
311 Avocet Street, Shaw AFB
Sumter SC 29152
Landholding Agency: Air Force
Property Number: 18201320086
Status: Unutilized
Comments: off-site removal only; no future agency need; 1,694 sf.; open storage for auto hobby shop; repairs needed; secured area; contact AF for more info.

Building 1826
100 Shaw Dr., Shaw AFB
Sumter SC 29152
Landholding Agency: Air Force
Property Number: 18201320087
Status: Unutilized
Comments: off-site removal only; no future agency need; 984 sf. washrack; repairs needed; secured area; contact AF for more info.

Tennessee

4 Buildings
Fort Campbell
Ft. Campbell TN 42223
Landholding Agency: Army
Property Number: 21201410045
Status: Unutilized
Directions: 6846, 7605, 3109, 3707
Comments: sq. ft. varies; poor conditions; asbestos/lead based paint; secured area; very strict accessibility requirements; contact Army for more info.

Texas

#1023 Compressed Air Plant Building
507 10th Street
Sheppard AFB TX 76311
Landholding Agency: Air Force
Property Number: 18201340044
Status: Underutilized
Comments: 572 sq. ft.; storage; 52+ years old secured area; escort required to access property; contact Air Force for more information.

#2017 Petroleum Operations Building
1402 K Avenue
Sheppard AFB TX 76311
Landholding Agency: Air Force
Property Number: 18201340045
Status: Underutilized
Comments: 1,811 sq. ft.; storage; 47 years old; secured area; escort required to gain access to property; contact Air Force for more information.

#1641 Be Maint Shop
Sheppard AFB
Sheppard TX 76311
Landholding Agency: Air Force
Property Number: 18201340046
Status: Underutilized
Comments: 1,546 sq. ft., storage; 40+yrs. old; secured area; escort required to access property; contact AF for more info.

4475 Chapel Center Partial
Sheppard AFB
Sheppard TX 76311
Landholding Agency: Air Force
Property Number: 18201410008
Status: Unutilized
Comments: 16,076 sq. ft.; 53 yrs. old; fair conditions; escort required each time to access property; contact Air Force for more information.

7 Buildings
Sheppard AFB
Sheppard TX 76311
Landholding Agency: Air Force
Property Number: 18201410009
Status: Underutilized
Directions: 1930 (567 sq. ft.); 55 (9,900 sq. ft.); 57 (2,930 sq. ft.); 832 (17,599 sq. ft.); 961 (22,149 sq. ft.); 962 (21,902 sq. ft.); 1918 (9,758 sq. ft.)
Comments: fair conditions; military escort required each time to access properties; contact Air Force regarding a specific property & accessibility requirements.

Utah

7 Buildings
Hill AFB
Layton UT 84056
Landholding Agency: Air Force
Property Number: 18201340026
Status: Excess
Directions: 01245 (15,103 sq. ft.); 00016 (560 sq. ft.); 1601 (2,785 sq. ft.); 1602 (127 sq. ft.); 1603 (1,000 sq. ft.); 1604 (127 sq. ft.); 1605 (120 sq. ft.)
Comments: off-site removal only; 70+ yrs. old; repairs needed; secured area; clearance for removal granted by installation commander; contact Air Force for more info.

13 Buildings
Hill AFB
Layton UT 84056
Landholding Agency: Air Force
Property Number: 18201340027
Status: Excess
Directions: 1607 (16,050 sq. ft.); 1608 (130 sq. ft.); 1609 (1,000 sq. ft.); 1901 (5,160 sq. ft.); 1902 (8,902 sq. ft.); 1946 (2,436 sq. ft.); 2214 (14,086 sq. ft.); 2232 (1,148 sq. ft.); 2238 (1,148 sq. ft.); 2241 (3,297 sq. ft.); 517 (26,602 sq. ft.); 518 (26,602 sq. ft.)
Comments: off-site removal only; 70+ yrs. old; repairs needed; secured area; clearance for removal granted by installation commander; contact Air Force for more info.

01244
Hill AFB
Layton UT 84056
Landholding Agency: Air Force
Property Number: 18201340038
Status: Excess
Comments: off-site removal only; 14,279 sq. ft.; clearance for removal granted by installation commander; contact Air Force for more info.

Building 11; Hill AFB
5923 C Ave.
Layton UT 84056
Landholding Agency: Air Force
Property Number: 18201340047
Status: Excess
Comments: off-site removal only; 18,898 sq. ft.; office/maint. shop; 72+ yrs. old; deteriorated; asbestos; secured area; contact Air Force for more info.

Virginia

5 Buildings
Fort Eustis
Ft. Eustis VA 23604
Landholding Agency: Air Force
Property Number: 18201340029
Status: Unutilized
Directions: 2739 (2,965 sq. ft.); 2740 (395 sq. ft.); 2746 (9,783 sq. ft.); 2796 (8,453 sq. ft.); 2798 (8,736 sq. ft.)
Comments: off-site removal only; no future agency need; age: 1967 (except bldg. 2740;

est. 2008); deteriorated; contact Air Force for more info. on a specific property/ accessibility requirements.

Buffalo Park Bldg.
John H. Kerr Lake & Dam
Mecklenburg VA 23917
Landholding Agency: COE
Property Number: 31201410001
Status: Unutilized
Comments: 897 sq. ft.; vacant; deteriorated; repairs needed; contact COE for more information.

Washington

Glacier garage Near Res. #1096
(1057.004841) 07661 00
Glacier WA 98244
Landholding Agency: Agriculture
Property Number: 15201410010
Status: Unutilized
Comments: 306 sq. ft.; open bldg. w/no roof; deteriorated; contact Agriculture for more information.

Baker River WC 3 Br. Res.
(1046.004841) 07661 02
Concrete WA 98237
Landholding Agency: Agriculture
Property Number: 15201410013
Status: Unutilized
Comments: 1,488 sq. ft.; residence; repairs needed; impacted due to environmental conditions; contact Agriculture for more information.

Suitable/Available Properties

Land

Alaska

Parcel of Land
Joint Base Elmendorf Richardson
JBER AK 99506
Landholding Agency: Air Force
Property Number: 18201330011
Status: Underutilized
Comments: 20x20 (400sf.); secured area; must obtain a visitor's pass & have a gov't sponsor escort to access installation; contact Air Force for more info.

Portion of Land
Joint Base Elmendorf Richardson
JBER AK 99505
Landholding Agency: Air Force
Property Number: 18201330012
Status: Underutilized
Comments: 1600 sf.; secured area; visitor's pass and gov't sponsored required; contact Air Force for more info.

Portion of Land
Joint Base Elmendorf Richardson
JBER AK 99505
Landholding Agency: Air Force
Property Number: 18201330013
Status: Underutilized
Comments: .29 acres; secured area; visitor's pass & gov't sponsor required; contact Air Force for more info.

37,515 SF of Land
JBER-Elmendorf
JBER AK 99506
Landholding Agency: Air Force
Property Number: 18201340003
Status: Underutilized
Comments: restricted area; transferee must obtain a government sponsor to access property; contact Air Force for more info.

Florida

WBPA (9901/72441/99300)
9901 E. Pine Ave.
St. George Island FL 32328
Landholding Agency: Air Force
Property Number: 18201310041
Status: Excess
Comments: .34 acres; tower & fence needs to be removed; remote access; contact AF for more info.

99142 Land
Cocoa Beach Tracking Annex
Cocoa Beach FL 32931
Landholding Agency: Air Force
Property Number: 18201340041
Status: Unutilized
Comments: .31 acre; launch support; subject to storm tidal surges that may cause flooding; contact Air Force for more info.

Indiana

Fac. 775/776 Coliometer
ILS Localizer
Cass County Rd. 950 S.
Galveston IN 46932
Landholding Agency: Air Force
Property Number: 18201410020
Status: Excess
Comments: 0.052 acres; contact Air Force for more information.

New York

Parcel 7
AFRL/RI Rome Lab
Rome NY 13441
Landholding Agency: Air Force
Property Number: 18201340036
Status: Unutilized
Comments: 1.722 acres; vacant; partially paved w/chain linked fence surrounding part of property; contact Air Force for more info.

Suitable/Unavailable Properties

Building

Oklahoma

24 Buildings
Tinker AFB
Tinker AFB OK 73145
Landholding Agency: Air Force
Property Number: 18201310040
Status: Excess
Directions: 9005, 217, 222, 234, 803, 902, 903, 904, 905, 990, 994, 1001, 1096, 1110, 2128, 3333, 3805, 4005, 4008, 7005, 7007, 7037, 7038, 7041
Comments: sf. varies; fair to moderate conditions; currently bldgs. are unavailable because they are being utilized by the AF.

Building 4008
6285 Hilltop Rd.
Tinker AFB OK 73145
Landholding Agency: Air Force
Property Number: 18201320085
Status: Excess
Comments: 7,767 sf.; depot operations facility; fair conditions; not available due to existing AF need.

Tennessee

19 Buildings
Fort Campbell
Fort Campbell TN 42223
Landholding Agency: Army
Property Number: 21201410022
Status: Excess
Directions: 00032, 00744, 00749, 00750, 00751, 00752, 00754, 00755, 00756, 00757, 00762, 00862, 00863, 00864, 00865, 00871, 00889, 6081, 7604
Comments: fair to poor conditions; sq. ft. varies; asbestos/lead based paint; secured area; strict accessibility requirements; alternative access; contact Army re: a specific property & accessibility requirements.

8 Buildings
Fort Campbell
Ft. Campbell TN 42223
Landholding Agency: Army
Property Number: 21201410030
Status: Unutilized
Directions: 7141, 2303, 2699, 2994, 2995, 2996, 2997, 3211, 3711
Comments: sq. ft. varies; poor conditions; asbestos/lead based paint; secured area; very strict accessibility requirements; contact Army for more info.

Washington

03321
Joint Base Lewis McChord
JBLM WA 98433
Landholding Agency: Army
Property Number: 21201410039
Status: Underutilized
Comments: off-site removal only; still existing Federal need; dissemble may be required; 33,460 sq. ft.; may be difficult to relocate due to sq. ft. & structure type; contact Army for more info.

Unsuitable Properties

Building

Alabama

2 Buildings
Maxwell AFB
Maxwell AFB AL 36112
Landholding Agency: Air Force
Property Number: 18201310034
Status: Underutilized
Directions: 1450, 1451
Comments: secured military installation; public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

3 Buildings
Visiting Officer Qtrs.
Gunter Annex AL 36114
Landholding Agency: Air Force
Property Number: 18201310035
Status: Underutilized
Directions: 1014, 1015, 1016
Comments: secured military installation; public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

Building 1411, Visiting Airman
635 McDonnell Street
Maxwell AFB AL 36114
Landholding Agency: Air Force
Property Number: 18201320009
Status: Underutilized
Comments: Public access denied & no alternative method to gain access w/out compromising nat'l sec.
Reasons: Secured Area

Building 122, Military Family
321 Hickory Street

Maxwell AFB AL 36112
Landholding Agency: Air Force
Property Number: 18201320012
Status: Underutilized
Comments: Public access denied & no alternative method to gain access w/out compromising nat'l sec.
Reasons: Secured Area

4 Facilities
20 Kelly Street
Maxwell AFB AL 36112
Landholding Agency: Air Force
Property Number: 18201320014
Status: Excess
Directions: 1073, 1074, 1075, 1076
Comments: Public access denied & no alternative method to gain access w/out compromising nat'l sec.
Reasons: Secured Area

Alaska

3 Buildings
Eielson AFB
Eielson AK
Landholding Agency: Air Force
Property Number: 18201310017
Status: Unutilized
Directions: 6161, 6120, 6154
Comments: w/in secured area; public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

10 Buildings
Flaxman Island
Flaxman Island AK
Landholding Agency: Air Force
Property Number: 18201320031
Status: Excess
Directions: 22, 23, 24, 41, 44, 4, 5, 100, 101, 105
Comments: Public access denied & no alternative method to gain access w/out compromising nat'l sec.
Reasons: Secured Area

Building 4
Flaxman Island
Flaxman Island AK
Landholding Agency: Air Force
Property Number: 18201320078
Status: Excess
Comments: public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

Bldg. 2206
Eielson; 2345 Wabash Ave.
Eielson AK 99702
Landholding Agency: Air Force
Property Number: 18201340002
Status: Unutilized
Comments: public access denied and no alternative method to gain access w/out compromising national security.
Reasons: Secured Area

2 Buildings
Eareckson Air Station
Eareckson, AS AK
Landholding Agency: Air Force
Property Number: 18201410010
Status: Unutilized
Directions: 452, 453
Comments: public access denied and no alternative method to gain access w/out compromising national security.
Reasons: Secured Area

652
Joint Base Elmendorf
Richardson
JBER-Richardson AK 99505
Landholding Agency: Air Force
Property Number: 18201410018
Status: Underutilized
Comments: public access denied and no alternative method to gain access w/out compromising national security.
Reasons: Secured Area

Arizona

Building 1535-Credit Union W.
N. 138th Ave.
Glendale AZ 85309
Landholding Agency: Air Force
Property Number: 18201320001
Status: Excess
Comments: w/in secured area; public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

6 Buildings
Davis Monthan AFB
Tucson AZ 85707
Landholding Agency: Air Force
Property Number: 18201340028
Status: Underutilized
Directions: 127, 7410, 7411, 7413, 7416, 7412
Comments: located on a gated entry controlled military base; public access denied and no alternative method to gain access w/out compromising national security.
Reasons: Secured Area

Arkansas

Shiloh Park Change Shelter
Greers Ferry Lake Project
Greer Ferry AR 72067
Landholding Agency: COE
Property Number: 31201410004
Status: Underutilized
Comments: Documented deficiencies: structurally unsound; significant cracks in foundation; any attempt to relocate will result in collapse of structure.
Reasons: Extensive deterioration

California

2 Buildings
401 & 405 14th St.
Edwards AFB CA 93524
Landholding Agency: Air Force
Property Number: 18201230002
Status: Unutilized
Directions: 7177, 7179
Comments: public access not allowed; no alternative method to allow public access w/out comprising nat'l security.
Reasons: Secured Area

4259
741 Circle
Edwards AFB CA 93524
Landholding Agency: Air Force
Property Number: 18201230003
Status: Unutilized
Comments: public access not allowed; no alternative method to allow public access w/out comprising nat'l security.
Reasons: Secured Area

3 Buildings
Edwards AFB
Edwards AFB CA 93524
Landholding Agency: Air Force
Property Number: 18201230032
Status: Unutilized
Directions: 1412,4203,7020
Comments: located w/in restricted area where public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

26 Buildings
Eureka Hill Rd.
Point Arena Air CA
Landholding Agency: Air Force
Property Number: 18201240011
Status: Underutilized
Directions: 602,603,604,605,606,607,608,609, 610,611,612,613,614,615,616,617,618,619, 620,621,622,623,624,625,626,627
Comments: secured area; public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

21 Buildings
Eureka Hill Rd.
Point Arena Air CA
Landholding Agency: Air Force
Property Number: 18201240012
Status: Underutilized
Directions: 100,102,104,105,160,201,108,202, 203,206,220,221,222,225,228,217,218,408, 700,300,216
Comments: secured area; public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

ACFT DY RSCH
Edwards AFB
Edwards CA
Landholding Agency: Air Force
Property Number: 18201240016
Status: Unutilized
Comments: secured area; public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

ACFT RSCH ENG
Edwards AFB
Edwards CA
Landholding Agency: Air Force
Property Number: 18201240017
Status: Unutilized
Comments: secured area; public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

Kennel Stray Animal
Edwards AFB
Edwards CA
Landholding Agency: Air Force
Property Number: 18201240018
Status: Excess
Comments: secured area; public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

10 Buildings
Fresno Yosemite Intern 'l
Fresno CA 93727
Landholding Agency: Air Force
Property Number: 18201240036
Status: Excess
Directions: 2202,2203,2204,2206,2207,2208, 2217,2219,2221,2223
Comments: restricted area; public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

4 Buildings
Arnold/Grumman Ave.
Beale CA 95903
Landholding Agency: Air Force
Property Number: 18201310018
Status: Underutilized
Directions: 1057, 1058, 1226, 1152
Comments: w/in secured area; public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

4 Buildings
Edwards AFB
Edwards AFB CA 93523
Landholding Agency: Air Force
Property Number: 18201310053
Status: Underutilized
Directions: B1412, B1400, B4900, B8834
Comments: secured area; public access denied & no alternative w/out compromising nat'l security.
Reasons: Secured Area

West Wing Education Center
144 Wyoming Ave.
Vandenberg CA 93437
Landholding Agency: Air Force
Property Number: 18201320061
Status: Underutilized
Directions: 10 Buildings; 14001–14010
Comments: public access denied & no alternative method to gain access w/out compromising nat'l sec.
Reasons: Secured Area

Building 124
Defense Distribution, San Joaquin
Sharpe Site
Lathrop CA 95231
Landholding Agency: Air Force
Property Number: 18201330052
Status: Unutilized
Comments: public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

C927 and C15
Sandia National Lab
Livermore CA 94550
Landholding Agency: Energy
Property Number: 41201410009
Status: Underutilized
Comments: public access denied and no alternative method to gain access w/out compromising national security.
Reasons: Secured Area

Warehouse No. 9
Edwards AFB
Edwards CA
Landholding Agency: NASA
Property Number: 71201410003
Status: Excess
Directions: NASA DFRC
Comments: public access denied and no alternative method to gain access w/out compromising national security.
Reasons: Secured Area

Facilities Maint. Contractor
Bldg.
Edwards AFB
Edwards CA
Landholding Agency: NASA
Property Number: 71201410004
Status: Excess
Directions: NASA DFRC
Comments: public access denied and no alternative method to gain access w/out compromising national security.
Reasons: Secured Area

Colorado

4 Buildings
Buckley AFB
Aurora CO 80011
Landholding Agency: Air Force
Property Number: 18201230017
Status: Underutilized
Directions: B1504,B1503,B1502,B1501
Comments: located w/in secured area where public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

Building 1615
1390 S. Chucara Street
Aurora CO 80011
Landholding Agency: Air Force
Property Number: 18201320028
Status: Unutilized
Comments: public access denied & no alternative method to gain access method w/out compromising nat'l sec.
Reasons: Secured Area

B/2001
Range 123W.-Prairie
Pueblo West CO 81007
Landholding Agency: Air Force
Property Number: 18201330035
Status: Underutilized
Comments: public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

MFH-Bldg. 47000
A & B E. Ponderosa Dr.
UASF CO 80840
Landholding Agency: Air Force
Property Number: 18201340033
Status: Unutilized
Comments: public access denied & no alternative method to gain access w/out compromising national security.
Reasons: Secured Area

Delaware

2 Buildings
Dover AFB
Dover DE 19902
Landholding Agency: Air Force
Property Number: 18201230018
Status: Underutilized
Directions: 3499,899
Comments: located w/in secured area where public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

Building 2818
2600 Spruance Dr.
New Castle DE 19720
Landholding Agency: Air Force
Property Number: 18201310050
Status: Unutilized
Comments: secured area; public access denied & no alternative w/out compromising nat'l security.
Reasons: Secured Area

Florida

Facilities 28407 & 28411
1656 Lighthouse Rd.
Cape Canaveral FL 32925
Landholding Agency: Air Force
Property Number: 18201220009
Status: Excess
Comments: nat'l security concerns; public access denied & no alternative method to gain access w/out comprising nat'l security.
Reasons: Secured Area

10 Buildings
Cape Canaveral
Cape Canaveral FL 32925
Landholding Agency: Air Force
Property Number: 18201220039
Status: Excess
Directions: 28411, 28415, 44500, 49928, 28401, 24445, 24404, 24403, 1715, 70540
Comments: nat'l security concerns; public access denied & no alternative method to gain access w/out comprising nat'l security.
Reasons: Secured Area

3 Buildings
MacDill AFB
MacDill FL 33621
Landholding Agency: Air Force
Property Number: 18201230009
Status: Unutilized
Directions: 1205, 1149, 1135
Comments: located w/in secured area where public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

10 Buildings
Samuel C. Philips Pkwy
Cape Canaveral AFB FL 32925
Landholding Agency: Air Force
Property Number: 18201230014
Status: Excess
Directions: 84922,84920,67900,60535,60534, 1361,40906,56623,36004,17705
Comments: located w/in secured area where public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

Facility 49800
15030 Samuel C. Phillips Pkwy
Cape Canaveral FL 32925
Landholding Agency: Air Force
Property Number: 18201230019
Status: Excess
Comments: located w/in secured area where public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

Bldg. 1132
Transmitter Rd.
MacDill AFB FL 33621
Landholding Agency: Air Force
Property Number: 18201230021
Status: Unutilized
Comments: located w/in secured area where public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

Bldg. 297
8005 Hillsborough Loop Dr.
MacDill FL 33621
Landholding Agency: Air Force
Property Number: 18201230049
Status: Underutilized
Comments: located w/in secured area; public access denied & no alternative method to gain access w/out compromising nat'l security.

Reasons: Secured Area

2 Buildings
Eglin AFB
Eglin FL 32542
Landholding Agency: Air Force
Property Number: 18201230058
Status: Unutilized
Directions: 586, 9267
Comments: located in restricted controlled gov't installation; public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

4 Buildings
Fighter Wing, FL ANGB
Jacksonville FL 32218
Landholding Agency: Air Force
Property Number: 18201240028
Status: Underutilized
Directions: 1014,1015,1016,1017
Comments: property located on a gated entry controlled military base; public access denied & no alternative to gain access w/ out compromising nat'l security.
Reasons: Secured Area

Facility 3013
107 Ford St.
Eglin AFB FL 32542
Landholding Agency: Air Force
Property Number: 18201240034
Status: Underutilized
Comments: located in a secured area; on the Duke Field cantonment area; public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

3 Buildings
Tyndall AFB
Tyndall FL 32403
Landholding Agency: Air Force
Property Number: 18201310012
Status: Unutilized
Directions: B122, B123, 920
Comments: located w/in secured area; public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

21 Buildings
Cape Canaveral AFS
Cape Canaveral AFS FL 32925
Landholding Agency: Air Force
Property Number: 18201310032
Status: Unutilized
Directions: 1627, 2826, 2842, 4120, 5414, 7006, 7850, 8602, 15832, 28403, 28404, 28408, 28409, 28414, 28420, 28422, 28423, 28425, 28502, 28504, 36001
Comments: secured area; public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

5 Buildings
Kennedy Space Ctr. Communications
Kennedy Space Ctr. FL 32815
Landholding Agency: Air Force
Property Number: 18201310033
Status: Unutilized
Directions: 29115, 29120, 29139, 29142, 95401
Comments: secured area; public access denied & no alternative method without compromising nat'l security.
Reasons: Secured Area

12 Buildings
Florida Ave.
Tyndall AFB FL 32403
Landholding Agency: Air Force
Property Number: 18201310061
Status: Underutilized
Directions: 6030, 6022, 6021, 6020, 6016, 6014, 6025, 6023, 6028, 9706, 9704, 9719
Comments: secured area; public access denied & no alternative method w/out compromising nat'l security.
Reasons: Secured Area

6027 CE Shop/DRMO
302 Florida Ave.
Tyndall AFB FL 32403
Landholding Agency: Air Force
Property Number: 18201310062
Status: Excess
Comments: secured area; public access denied & no alternative method w/out compromising nat'l security.
Reasons: Secured Area

5 Buildings
MacDill AFB
MacDill AFB FL 33621
Landholding Agency: Air Force
Property Number: 18201320051
Status: Underutilized
Directions: 827,826,694,550,13
Comments: not accessible to public; no alter. to gain access w/out compromising nat'l sec.
Reasons: Secured Area

3 Buildings
MacDill AFB
MacDill AFB FL 33621
Landholding Agency: Air Force
Property Number: 18201320052
Status: Underutilized
Directions: 1107,65,60
Comments: not accessible to public; no alter. to gain access w/out compromising nat'l sec.
Reasons: Secured Area

2 Buildings
MacDill AFB
MacDill AFB FL 33671
Landholding Agency: Air Force
Property Number: 18201320065
Status: Unutilized
Directions: 1153,1271
Comments: public access denied & no alternative method to gain access w/out compromising nat'l sec.
Reasons: Secured Area

2 Buildings
FTFA
Eglin AFB FL 32542
Landholding Agency: Air Force
Property Number: 18201330018
Status: Underutilized
Directions: 2664,2694
Comments: public access denied & no alternative to gain access w/out compromising nat'l security..
Reasons: Secured Area

Building 56636
755 Lighthouse Rd.
Cape Canaveral AFS FL 32925
Landholding Agency: Air Force
Property Number: 18201330020
Status: Unutilized
Comments: public access denied & no alternative method to gain access w/out compromising nat'l security..
Reasons: Secured Area

2 Buildings
125th Fighter Wing
Jacksonville FL 32218
Landholding Agency: Air Force
Property Number: 18201340012
Status: Unutilized
Directions: 1047, 1048
Comments: public access denied & no alternative method to gain access w/out compromising national security.
Reasons: Secured Area

4 Buildings
Cape Canaveral Air Force Station
Cape Canaveral FL 32925
Landholding Agency: Air Force
Property Number: 18201410002
Status: Unutilized
Directions: 60550, 55150, 1381, 28413
Comments: public access denied and no alternative to gain method to gain access w/out compromising national security.
Reasons: Secured Area

Hawaii

2 Buildings
Wake Island
Wake Island HI 96898
Landholding Agency: Air Force
Property Number: 18201330009
Status: Unutilized
Directions: 01406,01403
Comments: public access denied & no alternative to gain access w/out compromising nat'l security..
Reasons: Secured Area

Building 102
Wake Island Airfield
Wake Island HI 96898
Landholding Agency: Air Force
Property Number: 18201330047
Status: Unutilized
Comments: 100% of the property located in floodway; not contained or corrected.
Reasons: Floodway

Joint Base Pearl Harbor Hickam
Installation N62813
325 Gardner Ave.
Pearl Harbor HI 96853
Landholding Agency: Air Force
Property Number: 18201330048
Status: Unutilized
Comments: public access denied & no alternative method to gain access w/out compromising nat'l security..
Reasons: Secured Area

Idaho

Riggins Tack Shed #2
Wallowa-Whitman National Forest
Hells Canyon National
Riggins ID 83549
Landholding Agency: Agriculture
Property Number: 15201410014
Status: Excess
Comments: documented deficiency; structurally unsound; roof collapsing.
Reasons: Extensive deterioration

Fac. 291
Bomber Rd.
MHAFB ID 83648
Landholding Agency: Air Force
Property Number: 18201240013
Status: Unutilized
Comments: secured area; public access denied & no alternative method to gain access w/out compromising nat'l security.

Reasons: Secured Area

Illinois

3 Buildings
Scott AFB
Scott AFB IL 62225
Landholding Agency: Air Force
Property Number: 18201220034
Status: Unutilized
Directions: 1984, 1985, 530
Comments: high security. active duty installation; nat'l security. concerns; public access denied & no alternative method to gain access w/out comprising nat'l security.
Reasons: Secured Area

B1508
107 Bucher St.
Scott AFB IL 62225
Landholding Agency: Air Force
Property Number: 18201230023
Status: Excess
Comments: authorized access only; restricted area; public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

Building 509
611 South Drive
Scott AFB IL 62225
Landholding Agency: Air Force
Property Number: 18201310009
Status: Unutilized
Comments: located w/in secured area; public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

2 Buildings
Scott AFB
Scott AFB IL 62225
Landholding Agency: Air Force
Property Number: 18201320029
Status: Unutilized
Directions: 3270, 4900
Comments: high security. active duty installation; public access denied & no alter. method w/out compromising nat'l sec.
Reasons: Secured Area

2 Buildings
Abraham Lincoln Capital Airport
Springfield IL 62707
Landholding Agency: Air Force
Property Number: 18201330031
Status: Excess
Directions: 124,5
Comments: public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

Bldg. 155
Scott AFB
Scott IL 62225
Landholding Agency: Air Force
Property Number: 18201340022
Status: Unutilized
Comments: public access denied & no alternative method to gain access w/out compromising national security.
Reasons: Secured Area

Lake Shelbyville Project Lake
St. Louis District
Shelbyville IL 62565
Landholding Agency: COE
Property Number: 31201410003
Status: Unutilized
Comments: public access denied and no alternative method to gain access w/out compromising national security.
Reasons: Secured Area

Indiana

Facilities 99 &1371
Stor Igloos
Terre Haute IN 47803
Landholding Agency: Air Force
Property Number: 18201220019
Status: Unutilized
Comments: nat'l security. concerns; public access denied & no alternative method to gain access w/out comprising nat'l security..
Reasons: Secured Area

Kansas

Building 985
McConnell AFB
Wichita KS 67221
Landholding Agency: Air Force
Property Number: 18201330021
Status: Underutilized
Comments: public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

Louisiana

3 Buildings
Barksdale AFB
Barksdale AFB LA 71110
Landholding Agency: Air Force
Property Number: 18201220032
Status: Unutilized
Directions: 5724, 7318, 7136
Comments: nat'l security. concerns; public access denied & no alternative method to gain access w/out comprising nat'l security.
Reasons: Secured Area

B–5485
Barksdale AFB
Barksdale LA 71110
Landholding Agency: Air Force
Property Number: 18201330040
Status: Unutilized
Comments: public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

B–4359
Barksdale AFB
Barksdale LA 71110
Landholding Agency: Air Force
Property Number: 18201410012
Status: Unutilized
Comments: public access denied and no alternative method to gain access w/out compromising national security.
Reasons: Secured Area

Maine

Building 421
Bangor Intern 'l Airport
Bangor ME 04401
Landholding Agency: Air Force
Property Number: 18201320057
Status: Excess
Comments: public access & no alters. w/out compromising nat'l sec.
Reasons: Secured Area

Building 495
104 Glenn Ave.
Bangor ME 04401
Landholding Agency: Air Force
Property Number: 18201320059
Status: Excess
Comments: public access denied & no alters. w/out compromising nat'l sec.
Reasons: Secured Area

Maryland

2 Buildings
Martin State Airport
Baltimore MD 21220
Landholding Agency: Air Force
Property Number: 18201220022
Status: Excess
Directions: 1120 & 1121
Comments: nat'l security. concerns; public access denied & no alternative method to gain access w/out comprising nat'l security.
Reasons: Secured Area

9 Buildings
Joint Base Andrews
Joint base Andrews MD 20762
Landholding Agency: Air Force
Property Number: 18201340034
Status: Unutilized
Directions: 4942, 4952, 4962, 4963, 4964, 4971, 4972, 4973, 4982
Comments: no entry to military installation w/out DoD ID; public access denied & no alternative method to gain access w/out compromising national security.
Reasons: Secured Area

Massachusetts

137 Pump House
Reilly House
OTIS ANGB MA
Landholding Agency: Air Force
Property Number: 18201230048
Status: Excess
Comments: located w/in secured area; public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

3 Buildings
175 Falcon Dr.
Westfield MA 01085
Landholding Agency: Air Force
Property Number: 18201240026
Status: Excess
Directions: 16,35,28
Comments: located on secured area; public access denied & no alternative methods to gain access w/out compromising nat'l security.
Reasons: Secured Area

2 Building
50 Maple Street
Milford MA 01757
Landholding Agency: Air Force
Property Number: 18201320056
Status: Excess
Directions: 100 & 101
Comments: public access denied & no alternative method to gain access w/out compromising Nat'l sec.
Reasons: Secured Area

10 Buildings
Hanscom AFB
Hanscom MA 01731
Landholding Agency: Air Force
Property Number: 18201410006

Status: Excess
Directions: 1122, 1123, 1124, 1126, 1128, 1138, 1140, 1141, 1142
Comments: public access denied and no alternative to method to gain access w/out compromising national security.
Reasons: Secured Area

Mississippi

Bldg. 21005
6225 M St.
Meridian MS 39307
Landholding Agency: Air Force
Property Number: 18201230046
Status: Unutilized
Comments: access limited to military personnel only; public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

Building 630
713 Lockhart
Columbus MS 39710
Landholding Agency: Air Force
Property Number: 18201230060
Status: Underutilized
Comments: public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

Building 115
CRTC Gulfport
Gulfport MS 39507
Landholding Agency: Air Force
Property Number: 18201330002
Status: Excess
Comments: public access denied & no alternative method to gain access method w/out compromising Nat'l sec.
Reasons: Secured Area

5025
Keesler AFB
Keesler AFB MS 39534
Landholding Agency: Air Force
Property Number: 18201410011
Status: Underutilized
Comments: public access denied and no alternative method to gain access w/out compromising national security.
Reasons: Secured Area

Small Arms Firing Range
Keesler AFB
Keesler AFB MS 39534
Landholding Agency: Air Force
Property Number: 18201410013
Status: Excess
Comments: public access denied and no alternative method to gain access w/out compromising national security.
Reasons: Secured Area

Missouri

Building 115
10800 Lambert Int'l Blvd.
St. Louis MO 63044
Landholding Agency: Air Force
Property Number: 18201310004
Status: Unutilized
Comments: restricted military installation; public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

N. Mariana Island

Building 2001/RG CON HSE
Range 123 W.—Prairie
Pueblo West CQ 81007
Landholding Agency: Air Force
Property Number: 18201330005
Status: Underutilized
Comments: Public access denied & no alter., method w/out compromising nat'l sec.
Reasons: Secured Area

Nebraska

Building 113
null
Offutt AFB NE 68113
Landholding Agency: Air Force
Property Number: 18201320039
Status: Excess
Comments: Public access denied and no alternative method to gain access Without compromising Nat'l sec.
Reasons: Secured Area

Building 670
1111 West Oak Ave.
Lincoln NE 68524
Landholding Agency: Air Force
Property Number: 18201320084
Status: Unutilized
Comments: 100% of property located in floodway; floodway has not been correct or contained.
Reasons: Floodway

Bldg. 73
510 Custer Dr.
Offutt AFB NE 68113
Landholding Agency: Air Force
Property Number: 18201340009
Status: Excess
Comments: public access denied & no alternative method to gain access w/out compromising national security.
Reasons: Secured Area

New Hampshire

PEASE ANGB
302 Newmarket St.
Newington NH 03803
Landholding Agency: Air Force
Property Number: 18201230043
Status: Unutilized
Comments: public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

New Mexico

Bldgs. 573,855, 859
Holloman AFB
Holloman AFB NM 88330
Landholding Agency: Air Force
Property Number: 18201220023
Status: Unutilized
Comments: nat'l security concerns; public access denied & no alternative method to gain access w/out comprising nat'l security.
Reasons: Secured Area

5 Buildings
Holloman AFB
Holloman AFB NM 88330
Landholding Agency: Air Force
Property Number: 18201220030
Status: Unutilized
Directions: 19, 838, 1197, 847, 1198
Comments: nat'l security concerns; public access denied due to anti-terrorism & no alternative method to gain access w/out comprising nat'l security.
Reasons: Secured Area

Buildings 782,793,1102,803
Holloman AFB
Holloman NM 88330
Landholding Agency: Air Force
Property Number: 18201240008
Status: Unutilized
Comments: Active military installation; public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

Building 848
Holloman AFB
Holloman NM 88330
Landholding Agency: Air Force
Property Number: 18201330007
Status: Unutilized
Comments: Public access denied due to anti-terrorism/force protection; no alternative method to gain access.
Reasons: Secured Area

Building 848
Holloman AFB
Holloman NM 88330
Landholding Agency: Air Force
Property Number: 18201340032
Status: Unutilized
Directions: RPUID: 44558
Comments: public access denied & no alternative method to gain access w/out compromising national security.
Reasons: Secured Area

Bldg. 849 RPUID:439167
Holloman AFB
Holloman NM 88330
Landholding Agency: Air Force
Property Number: 18201410019
Status: Excess
Comments: public access denied and no alternative method to gain access w/out compromising national security.
Reasons: Secured Area

2 Buildings
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41201410008
Status: Excess
Directions: 72–0015 & 72–0016
Comments: public access denied and no alternative method to gain access w/out compromising national security.
Reasons: Secured Area

New York

Bldg. 11
1 Air National Guard Rd.
Schenectady Airport NY 12302
Landholding Agency: Air Force
Property Number: 18201340017
Status: Excess
Comments: public access denied & no alternative method to gain access w/out compromising national security.
Reasons: Secured Area

702
Niagara Falls IAP
ARS–NY
Niagara Falls NY 14304
Landholding Agency: Air Force
Property Number: 18201410005
Status: Unutilized
Comments: public access denied and no alternative method to gain access w/out compromising national security.

Reasons: Secured Area

3 Buildings
Hancock Field ANG IAP
Syracuse NY 13211
Landholding Agency: Air Force
Property Number: 18201410014
Status: Unutilized
Directions: 600, 641, 617
Comments: public access denied and no alternative method to gain access w/out compromising national security.
Reasons: Secured Area

North Carolina

Tract #91929; Welcome Center Pavilion
1000 N. Croatan Hwy
Kill Devil Hills NC 27948
Landholding Agency: Interior
Property Number: 61201410007
Status: Excess
Comments: experience flooding during heavy rainfall; located in an 100 yr. floodplain in where floodway has not been corrected and/or contained.
Reasons: Floodway

North Dakota

28 Buildings
JFSD Grand Forks AFB
Grand Folks ND 58205
Landholding Agency: Air Force
Property Number: 18201320043
Status: Unutilized
Directions: 702,727,728,729,730,731,733,726, 725,724,723,722,720,719,718,717,715,714, 713,712,711,709,708,707,706,705,703,704
Comments: not accessible to public & no alter. w/out compromising nat'l sec.
Reasons: Secured Area

Ohio

Facility 20167
2310 Eighth St.
WPAFB OH 43433
Landholding Agency: Air Force
Property Number: 18201230031
Status: Unutilized
Comments: located w/in controlled fenced perimeter of military installation; public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

10 Buildings
WPAFB
WPAFB OH 45433
Landholding Agency: Air Force
Property Number: 18201310013
Status: Unutilized
Directions: 10297, 20062, 20096, 20130, 30153, 30882, 30902, 31190, 30230, 31234
Comments: w/in secured installation; public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

3 Buildings
Wright-Patterson AFB
WPAFB OH 45433
Landholding Agency: Air Force
Property Number: 18201320058
Status: Unutilized
Directions: 00841,34020,34065
Comments: w/insured gov't installation; public access denied & no alter. w/out compromising nat'l sec.
Reasons: Secured Area

Oklahoma

Facility 47
Altus AFB
AGGN OK 73523
Landholding Agency: Air Force
Property Number: 18201230030
Status: Excess
Comments: public access denied due to anti-terrorism/force protection & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

Facility 47
501 North First St.
Altus OK 73523
Landholding Agency: Air Force
Property Number: 18201240022
Status: Excess
Comments: public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

2 Buildings
Altus AFB
Altus OK 73523
Landholding Agency: Air Force
Property Number: 18201310051
Status: Unutilized
Directions: 267, 335
Comments: secured area; public access denied & no alternative w/out compromising nat'l security.
Reasons: Secured Area

Oregon

Building 1004
6801 NE Cornfoot Rd.
Portland OR 97218
Landholding Agency: Air Force
Property Number: 18201240025
Status: Unutilized
Comments: located on secured areea; public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

Building 188
6801 NE Cornfoot Road
Portland OR 97218
Landholding Agency: Air Force
Property Number: 18201320064
Status: Unutilized
Comments: public access denied & no alternative method to gain access method w/out compromising nat'l sec.
Reasons: Secured Area

Building 370
Portland IAP TQKD (ANG)
Portland OR 97218
Landholding Agency: Air Force
Property Number: 18201330045
Status: Unutilized
Comments: public access denied & no alternative to gain access w/out compromising nat'l security.
Reasons: Secured Area

Pennsylvania

Pa Ang Bldg. 1–66
Ft. Indiantown Gap AGS, LKLW
Annville PA 17003
Landholding Agency: Air Force
Property Number: 18201330051
Status: Excess
Comments: public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

Pa Ang Bldg. 1–66
Fort Indiantown Gap
AGS, LKLW
Annville PA 17003
Landholding Agency: Air Force
Property Number: 18201340018
Status: Excess
Comments: public access denied & no alternative method to gain access w/out compromising national security.
Reasons: Secured Area

Rhode Island

Buildings 25 CC & A10 CC
Naval Station Newport
Newport RI 02841
Landholding Agency: Navy
Property Number: 77201410012
Status: Excess
Comments: public access denied and no alternative method to gain access w/out compromising national security.
Reasons: Secured Area

Fac. #307
Naval Station Newport
Newport RI 02840
Landholding Agency: Navy
Property Number: 77201410013
Status: Excess
Comments: public access denied and no alternative method to gain access w/out compromising nat'l security; 85–90% of property located in an uncontained/uncorrected floodway.
Reasons: Floodway, Secured Area

South Carolina

Bldg. 211
110 Graves Ave.
Joint Base Charleston SC 29404
Landholding Agency: Air Force
Property Number: 18201230055
Status: Unutilized
Comments: located in restricted area; public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

DKGV 822
JB Charleston
Goose Creek SC 29445
Landholding Agency: Air Force
Property Number: 18201340010
Status: Unutilized
Comments: public access denied & no alternative method to gain access w/out compromising national security.
Reasons: Secured Area

DKGV 43
JB Charleston
Goose Creek SC 29445
Landholding Agency: Air Force
Property Number: 18201340011
Status: Underutilized
Comments: public access denied & no alternative method to gain access w/out compromising national security.
Reasons: Secured Area

South Dakota

Building 80
1201 W Algonquin St.

Sioux Falls SD 57104
Landholding Agency: Air Force
Property Number: 18201330003
Status: Excess
Comments: public access denied & no alternative method to gain access method w/out compromising Nat'l sec.
Reasons: Secured Area

Building 80
LUXC Joe Foss Field
Sioux Falls SD 57104
Landholding Agency: Air Force
Property Number: 18201330039
Status: Excess
Comments: public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

Tennessee

Bldg. 708
Nashville IAP
Nashville TN 37217
Landholding Agency: Air Force
Property Number: 18201230059
Status: Underutilized
Comments: authorized military personnel only; restricted area; public access denied & no alternative method to gain access w/ out compromising nat'l security.
Reasons: Secured Area

Building 712
240 Knapp Blvd.
Nashville TN 37217
Landholding Agency: Air Force
Property Number: 18201240024
Status: Excess
Comments: located on secured area; public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

Building 750
South Fourth St.
Arnold AFB TN 37389
Landholding Agency: Air Force
Property Number: 18201240037
Status: Excess
Comments: located on secured area where public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

Facilities 1470 & 1485
Arnold AFB
Arnold AFB TN 37389
Landholding Agency: Air Force
Property Number: 18201310063
Status: Excess
Comments: secured area; public access denied & no alternative method w/out compromising nat'l security.
Reasons: Secured Area

Building 131
320 Post Ave. McGhee Tyson
Louisville TN 37777
Landholding Agency: Air Force
Property Number: 18201320045
Status: Unutilized
Comments: secured military installation; public access denied & no alter. method w/ out compromising nat'l sec.
Reasons: Secured Area

Building 13
320 Post Ave. McGhee Tyson
Louisville TN 37777
Landholding Agency: Air Force
Property Number: 18201320046
Status: Excess
Comments: secured military installation, public access denied & no alter. w/out compromising nat'l sec.
Reasons: Secured Area

Bldg. 425, Viewing Stand
PSXE (McGhee Tyson Airport)
Louisville TN 37777
Landholding Agency: Air Force
Property Number: 18201340019
Status: Underutilized
Comments: public access denied & no alternative method to gain access w/out compromising national security.
Reasons: Secured Area

4 Buildings
McGhee Tyson Airport
Louisville TN 37777
Landholding Agency: Air Force
Property Number: 18201410007
Status: Excess
Directions: 106, 3001, 241, 3000
Comments: public access denied and no alternative method to gain access w/out compromising national security.
Reasons: Secured Area

Bldg. 425
McGhee Tyson Airport
Louisville TN 37777
Landholding Agency: Air Force
Property Number: 18201410015
Status: Underutilized
Comments: public access denied and no alternative method to gain access w/out compromising national security.
Reasons: Secured Area

Texas

11 Buildings
Ft. Sam Houston
San Antonio TX 78234
Landholding Agency: Air Force
Property Number: 18201220014
Status: Unutilized
Directions: 1149, 1151, 1152, 1153, 1154, 1158, 1159, 1160, 1161, 1162, 1163.
Comments: nat'l security concerns; public access denied & no alternative method to gain access w/out comprising nat'l security.
Reasons: Secured Area

12 Buildings
Ft. Sam Houston
San Antonio TX 78234
Landholding Agency: Air Force
Property Number: 18201220015
Status: Unutilized
Directions: 2410, 2411, 2412, 2425, 2427, 2429, 2430, 2432, 3551, 3552, 3553, 3557
Comments: nat'l security concerns; public access denied & no alternative method to gain access w/out comprising nat'l security.
Reasons: Secured Area

Bldg. 1092
Sheppard AFB
Sheppard AFB TX 76311
Landholding Agency: Air Force
Property Number: 18201220029
Status: Unutilized
Comments: nat'l security concerns; public access denied & no alternative method to gain access w/out comprising nat'l security.
Reasons: Secured Area

Shop A/M Org. B00054
251 Fourth Ave.
Del Rio TX 78843
Landholding Agency: Air Force
Property Number: 18201310058
Status: Unutilized
Comments: located on military installation; public access denied & no alternative method w/out compromising nat'l security.
Reasons: Secured Area

13 Buildings
Sheppard AFB
Sheppard AFB TX 76311
Landholding Agency: Air Force
Property Number: 18201310059
Status: Underutilized
Directions: 527, 528, 596, 690, 691, 692, 693, 776, 790, 791, 792, 793, 794
Comments: secured area; public access denied & no alternative method w/out compromising nat'l security.
Reasons: Secured Area

Building 530
519 I Ave.
Sheppard AFB TX 76311
Landholding Agency: Air Force
Property Number: 18201320044
Status: Underutilized
Comments: public access denied & no alternative method to gain access w/out compromising nat'l sec.
Reasons: Secured Area

Building 1400
Sheppard AFB
Sheppard TX
Landholding Agency: Air Force
Property Number: 18201340030
Status: Unutilized
Comments: public access denied & no alternative method to gain access w/out compromising national security.
Reasons: Secured Area

3 Buildings
Sheppard AFB
Sheppard TX
Landholding Agency: Air Force
Property Number: 18201340031
Status: Underutilized
Directions: 1700, 2208, 2220
Comments: public access denied & no alternative method to gain access w/out compromising national security.
Reasons: Secured Area

Virginia

Bldg. 1994
Eagle Ave
Hampton VA 23665
Landholding Agency: Air Force
Property Number: 18201220024
Status: Underutilized
Comments: nat'l security concerns; public access denied & no alternative method to gain access w/out comprising nat'l security.
Reasons: Secured Area

9 Buildings
Langley AFB
Langley AFB VA 23665
Landholding Agency: Air Force
Property Number: 18201220027
Status: Underutilized

Directions: 1092, 1093, 1094, 1095, 1096, 1097,1098, 750, 51
Comments: nat'l security concerns; public access denied & no alternative method to gain access w/out comprising nat'l security.
Reasons: Secured Area

Building 37
48 Dogwood Avenue
Hampton VA 23665
Landholding Agency: Air Force
Property Number: 18201330024
Status: Underutilized
Comments: active military installation; public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

Building 297
Sweeney Blvd.
Hampton VA 23665
Landholding Agency: Air Force
Property Number: 18201330027
Status: Excess
Comments: public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

Washington

LK WEN RS TRLR #2
(0151.005511) 07672 00
Leavenworth WA 98826
Landholding Agency: Agriculture
Property Number: 15201410008
Status: Unutilized
Comments: documented deficiencies: extensive damage due to a tree falling into property and partially collapsing the structure.
Reasons: Extensive deterioration

Wyoming

3 Buildings
FE Warren AF
Cheyenne WY 82005
Landholding Agency: Air Force
Property Number: 18201240020
Status: Unutilized
Directions: 1166,2277,835
Comments: restricted area; public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

Land

Alaska

12.28 Acres
Joint Base Elmendorf
Richardson
JBER AK 99505
Landholding Agency: Air Force
Property Number: 18201410016
Status: Underutilized
Comments: 100% of property located w/in an airport runway clear zone.
Reasons: Within airport runway clear zone.

46 Acres
Joint Base Elmendorf
Richardson
JBER-Elmendorf AK 99506
Landholding Agency: Air Force
Property Number: 18201410017
Status: Underutilized
Comments: 100% of property located w/in an airport runway clear zone.
Reasons: Within airport runway clear zone.

Florida

8 Buildings
null
Tyndall AFB FL 32403
Landholding Agency: Air Force
Property Number: 18201310011
Status: Underutilized
Directions: 205, 207, 214, 748, 1277, 1279, 1280, 1476
Comments: restricted military installation; public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

Massachusetts

Parking Lot
Hanscom AFB
Hanscom MA 01731
Landholding Agency: Air Force
Property Number: 18201410004
Status: Underutilized
Comments: public access denied and no alternative method to gain access w/out compromising national security.
Reasons: Secured Area

New Jersey

7.0 Acres land for training
Rounds & Lansdowne Roads
JBMDL NJ 08733
Landholding Agency: Air Force
Property Number: 18201320023
Status: Excess
Comments: public access denied & no alternative method to gain access/out compromising nat'l sec.
Reasons: Secured Area

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BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5775–N–01]

Authority To Accept Unsolicited Proposals for Research Partnerships

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: This notice announces that HUD's Office of Policy Development and Research (PD&R) has the authority to accept unsolicited research proposals that address current research priorities. In accord with statutory requirements, the research projects must be funded at least 50 percent by philanthropic entities or federal, state or local government agencies.

DATES: Proposals may be submitted at any time and will be evaluated as they are received.

FOR FURTHER INFORMATION CONTACT: Questions should be directed by email to *ResearchPartnerships@hud.gov*; by telephone to Madlyn Wohlman-Rodriguez at 202–402–5939 or Kinnard Wright at 202–402–7495; or by mail to the Department of Housing and Urban Development, Office of University Partnerships, 451 Seventh Street SW., Room 8226, Washington, DC 20410, ATTENTION: Research Partnerships. Persons with speech or hearing impairments may call the Federal Relay Service TTY at 800–877–8339.

SUPPLEMENTARY INFORMATION: The Consolidated Appropriations Act, 2014, (Pub. L. 113–76, approved January 18, 2014) (FY 2014 appropriation) authorizes PD&R to enter into non-competitive cooperative agreements for research projects that are aligned with PD&R's research priorities and where HUD can gain value by having substantial involvement in the research activity. Research projects must be funded at least 50 percent by philanthropic entities or other federal, state or local government agencies.

Research Priorities

The two primary documents that provide a framework for HUD's research priorities are:

(1) The *FY 2010–2015 Strategic Plan,* which specifies the Department's mission and strategic goals for program activities.

(2) The *HUD Research Roadmap FY 2014–2018* (available at *www.HUDUSER.org*), which takes the strategic plan as a starting point and integrates extensive input from diverse stakeholder groups to define a five-year research agenda. PD&R has developed and published this research agenda to focus research resources on timely, policy-relevant research questions that lie within the Department's area of comparative advantage. This focus on comparative advantage has a corollary, which is the accompanying need for PD&R to collaborate with other research organizations to support their comparative advantage in areas that are mutually important.

The authority that Congress provided HUD to enter into noncompetitive cooperative agreements for research is a central tool for fulfilling the *Roadmap's* vision for research collaboration. HUD may enter into noncompetitive cooperative agreements for research proposals that inform important policy and program objectives of HUD that are not otherwise being addressed and that focus on one of HUD's research priorities. The following summarizes these categories, but submitting institutions are encouraged to review the full list of priority research questions in appendix D of the *Roadmap,* and the priorities of HUD's updated *Strategic Plan* when it is

released, in interim or final form, in 2014.

(1) *Homeownership and housing finance.* Rapid changes in the housing finance sector led to the inflation of the house price bubble and its sudden deflation in the 2000s. The U.S. and much of the rest of the world continue to deal with the aftermath of the financial crisis rooted in the U.S. housing finance sector. HUD is interested in research in many areas of homeownership and housing finance, which include, but are not limited to: Better predicting a finance-driven house price bubble; improving outcomes for struggling homeowners and communities in the areas of foreclosures, foreclosure alternatives, mortgage modification protocols, and real-estate owned properties; finding ways that are safer for both borrowers and lenders to extend mortgage credit to first-time homebuyers and homeowners with less-than-stellar credit; and updating federal support structures for single-family and multifamily housing finance in a reformed housing finance system.

(2) *Affordable rental housing.* Providing housing assistance for low- and moderate-income families in the rental market is central to HUD's mission. HUD is interested in research that improves the efficiency and effectiveness of housing programs, which include public housing, Housing Choice Vouchers, assisted multifamily programs, and FHA insurance. Priority research questions address (among other topics):

(a) Improving program operations and responses to changing market conditions;

(b) identifying rent subsidy approaches that could more efficiently and beneficially meet the full range of housing needs; and

(c) better understanding how HUD's programs are affected by tenant and landlord behavior.

(3) *Housing as a platform for improving quality of life.* Specifically, the Department is interested in how HUD-provided housing assistance can be used to accomplish such things as:

(a) Improve educational outcomes and early learning and development;

(b) improve health outcomes;

(c) increase economic security and self-sufficiency;

(d) improve housing stability through supportive services for vulnerable populations, including the elderly, people with disabilities, homeless families and individuals, and those individuals and families at risk of becoming homeless; and

(e) improve public safety. To evaluate the ability of housing assistance to positively affect these various outcomes requires reaching beyond the sphere of housing to health, education, and other areas, which may involve targeted provision of cost-effective services in association with housing.

(4) *Sustainable and inclusive communities.* HUD's goal of advancing sustainable and inclusive communities seeks innovative and transformational evidence-based approaches to deal with long-standing and emerging community development challenges. HUD is interested in research questions such as, but not limited to:

(a) Implementing proven and cost-effective housing technology in HUD-funded housing or other housing, including green or sustainable construction methods, operations, and products that reduce energy consumption and other negative environmental impacts, while improving affordability, occupant health or other outcomes;

(b) understanding and addressing persistent segregation along racial, ethnic and economic lines, and the role of mixed-income housing and inclusionary zoning in strengthening communities;

(c) strengthening urban resilience in the face of climate change, disasters, pestilence and energy shocks;

(d) improving integrated and regional planning for land use and transportation;

(e) understanding the role and effect of anchor institutions (for example, universities, hospitals and churches) on the revitalization of distressed communities, particularly when the anchor institution engages the community and forms partnerships with local stakeholders for community change.

(5) *HUD Assets:* HUD has made, and continues to make, significant investments in ''Research Assets'' as described below, including program demonstrations and in the production of datasets, that PD&R is interested in seeing leveraged in ways that may, or may not, be specifically referenced in the *Research Roadmap* or HUD's *Strategic Plan.* Such studies demonstrate a broader usefulness of HUD's Research Assets that further increases the return on these investments for the taxpayer.

HUD's Research Assets

In considering potential research partnerships, PD&R urges organizations to consider ways to take advantage of key research assets that the *Research Roadmap* identifies as part of HUD's comparative advantage.

(1) *HUD demonstrations.* HUD values demonstrations as a method for evaluating new policy and program initiatives and significantly advancing evidence-based policy, especially when rigorous random-assignment methods are feasible. HUD also is interested in research opportunities that take advantage of completed and ongoing demonstrations. For example, the Moving to Opportunity demonstration was completed in 2011, but additional policy questions remain that could be answered using the existing data. Other demonstrations that are underway include Choice Neighborhoods, the Rental Assistance Demonstration, and the Small Area Fair Market Rent Demonstration. The Department's ability to modify or influence program policy to demonstrate and evaluate the effect of innovations is a key Departmental research asset. HUD also is interested in research opportunities that take advantage of completed and ongoing demonstrations.

(2) *HUD data infrastructure.* HUD makes significant investments to improve and support the nation's housing data, so submitting institutions are encouraged to consider opportunities to use HUD-sponsored survey data and administrative data. The American Housing Survey (AHS) is one of HUD's largest research investments, and the AHS provides a wealth of data on size and composition of the nation's housing inventory that researchers could use more effectively to address questions about housing market dynamics. The AHS, the 2012 Rental Housing Finance Survey, and other datasets sponsored by PD&R, along with HUD administrative data made available by PD&R, represent HUD research assets that PD&R seeks to exploit through Research Partnerships. Data assets are described at *http://www.huduser.org/portal/pdrdatas_landing.html.*

Cost Sharing

Cost sharing is required for research projects to be eligible for funding through HUD's non-competitive cooperative agreement authority. In accordance with the 2012 Appropriations Act, at least 50 percent of the total estimated cost of the project must come from a philanthropic entity, other federal, state or local government agency, or any combination of these partners. For the purposes of the cost-sharing requirement, HUD defines a philanthropic entity as the subset of 501(c)(3) organizations that directly fund research activities. These include

private foundations; educational institutions that may have a separate foundation, public charities, and operating foundations. Philanthropic entities may include foreign entities. HUD will not count waiver of overhead or similar costs as cost-sharing contributions.

Proposals

Proposals should contain sufficient information for PD&R to identify whether the research would meet statutory requirements for cost sharing and alignment with the research priorities identified above. Additionally, proposals should include the name, title and telephone number of an individual that PD&R may contact in the event of any questions about the proposal. Proposals for research partnerships that have already been submitted to HUD as part of a grant competition are ineligible as the subject of a non-competitive cooperative agreement.

Protection of Human Research Subjects

HUD will require successful applicants to comply with requirements of the federal Common Rule (45 CFR part 46) for protecting human research subjects when applicable. Compliance may require grantees to seek review and approval of research plans by an Institutional Review Board (IRB). For research requiring an IRB review, work plans shall identify the IRB that the awardee will use and factor in the necessary cost and time involved in that review. HUD will require awardees to provide appropriate assurances and certifications of compliance before human subjects research begins.

Proposal Review

Proposals will be reviewed by individuals who are knowledgeable in the field covered by the research proposal. An Advisory Committee that includes the Deputy Assistant Secretary (DAS) for the Office of Research, Evaluation and Monitoring, the DAS for the Office of Policy Development, the DAS for the Office of Economic Affairs, the DAS for the Office of University Partnerships, and the DAS for the Office of International and Philanthropic Innovation, or any delegate asked to act on his or her behalf, will review proposals and make recommendations to the Assistant Secretary for PD&R. As required by the statutory authority within the appropriations bill, HUD will report each award provided through a cooperative agreement in the Federal Funding Accountability and Transparency Act Sub-award Reporting System created under the Federal Funding Accountability and Transparency Act of 2006.

Data Only Requests

For those who are interested in requesting only HUD data (no funds), a HUD data license agreement will be required. To obtain a copy of the data license application go to the following Web site: *http://www.huduser.org/portal/research/pdr_data-license.html.* Please be advised that a data license will only be considered for research that is in alignment with one of the research priorities listed in this notice. Applications may be submitted to HUD at *DataLicense@hud.gov.* Upon receipt, the application will be forwarded to the appropriate PD&R office for review and approval.

Dated: March 14, 2014.

Jean Lin Pao,

General Deputy Assistant Secretary for Policy Development and Research.

[FR Doc. 2014–06243 Filed 3–20–14; 8:45 am]

BILLING CODE 4210–67–P

INTER-AMERICAN FOUNDATION

Sunshine Act Meetings

TIME AND DATE: March 31, 2014, 9:00 a.m.–1:30 p.m.

PLACE: 1331 Pennsylvania Ave NW., 12th Floor North, Suite 1200, Washington, DC 20004.

STATUS: Open session.

MATTERS TO BE CONSIDERED:

- Approval of the Minutes of the December 9, 2013, Meeting of the Board of Directors
- Management Report
- IAF Fellows Mid-Year Conference
- IAF Goodwill Ambassador
- Executive Session

PORTIONS TO BE OPEN TO THE PUBLIC:

- Approval of the Minutes of the December 9, 2013, Meeting of the Board of Directors
- Management Report
- IAF Fellows Mid-Year Conference
- IAF Goodwill Ambassador

CONTACT PERSON FOR MORE INFORMATION: Paul Zimmerman, General Counsel, (202) 683–7118.

Paul Zimmerman,

General Counsel.

[FR Doc. 2014–06348 Filed 3–19–14; 4:15 pm]

BILLING CODE 7025–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–IA–2014–N049; FXIA16710900000–145–FF09A30000]

Endangered Species; Marine Mammals; Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered species, marine mammals, or both. With some exceptions, the Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA) prohibit activities with listed species unless Federal authorization is acquired that allows such activities.

DATES: We must receive comments or requests for documents on or before April 21, 2014. We must receive requests for marine mammal permit public hearings, in writing, at the address shown in the **ADDRESSES** section by April 21, 2014.

ADDRESSES: Brenda Tapia, Division of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 212, Arlington, VA 22203; fax (703) 358–2280; or email *DMAFR@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Brenda Tapia, (703) 358–2104 (telephone); (703) 358–2280 (fax); *DMAFR@fws.gov* (email).

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

A. How do I request copies of applications or comment on submitted applications?

Send your request for copies of applications or comments and materials concerning any of the applications to the contact listed under **ADDRESSES**. Please include the **Federal Register** notice publication date, the PRT-number, and the name of the applicant in your request or submission. We will not consider requests or comments sent to an email or address not listed under **ADDRESSES**. If you provide an email address in your request for copies of applications, we will attempt to respond to your request electronically.

Please make your requests or comments as specific as possible. Please confine your comments to issues for which we seek comments in this notice, and explain the basis for your

comments. Include sufficient information with your comments to allow us to authenticate any scientific or commercial data you include.

The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) Those that include citations to, and analyses of, the applicable laws and regulations. We will not consider or include in our administrative record comments we receive after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

B. May I review comments submitted by others?

Comments, including names and street addresses of respondents, will be available for public review at the street address listed under **ADDRESSES**. The public may review documents and other information applicants have sent in support of the application unless our allowing viewing would violate the Privacy Act or Freedom of Information Act. 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.

II. Background

To help us carry out our conservation responsibilities for affected species, and in consideration of section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), along with Executive Order 13576, ''Delivering an Efficient, Effective, and Accountable Government,'' and the President's Memorandum for the Heads of Executive Departments and Agencies of January 21, 2009—Transparency and Open Government (74 FR 4685; January 26, 2009), which call on all Federal agencies to promote openness and transparency in Government by disclosing information to the public, we invite public comment on these permit applications before final action is taken. Under the MMPA, you may request a hearing on any MMPA application received. If you request a hearing, give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Service Director.

III. Permit Applications

A. Endangered Species

Applicant: Columbia University, New York, NY; PRT–24015B

The applicant requests a permit to import biological samples derived from captive-held and wild-caught specimens of Bornean orangutan (*Pongo pygmaeus*), Probiscus monkey (*Nasalis larvatus*), and the Sun bear (*Helarctos malayanus*) from Sabah, Malaysia, for the purpose of enhancement of the survival of the species.

Applicant: University of Pennsylvania School of Medicine, Philadelphia, PA; PRT–24385B

The applicant requests a permit to import biological samples derived from captive-born and wild specimens of common chimpanzee (*Pan troglodytes*) from the Chimfunshi Wildlife Orphanage, Chingola, Zambia, for the purpose of enhancement of the survival of the species.

Applicant: Northwest Fisheries Science Center Forensics Laboratory, Charleston, SC; PRT–10941B

The applicant requests a permit to export/re-export and import/re-import specimens from any endangered or threatened Proboscidea (elephants) and Cheloniidae (sea turtles) for the purpose of forensics activities which will directly or indirectly enhance the survival of the species in the wild for the purpose of scientific research. In addition, the request includes endangered or threatened FWS-jurisdiction marine mammal species as noted in Section B of this notice. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Feld Entertainment, Vienna, VA; PRT–22194B

The applicant requests a permit for the import of two captive-born tigers (*Panthera tigris*) for the purpose of enhancement of the species. The captive-born animals are being imported from Spillsby, England, in cooperation with Alexander Lacey.

Applicant: Feld Entertainment, Vienna, VA; PRT–21674B, 21676B, 21677B, 21679B, 21680B, and 21681B

The applicant requests permits to export captive-born tigers (*Panthera tigris*) to worldwide locations for the purpose of enhancement of the species. The permit numbers and animals are: 21674B, Janet; 21681B, Tarzan; 21676B, Judy; 21679B, Taba; 21677B, Napolean; and 21680B, Tabata. This notification covers activities to be conducted by the applicant over a 3-year period.

Multiple Applicants

The following applicants each request a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Wesley Reeves, Fulshear, TX; PRT–29286B

Applicant: Joan Manasse, Cheyenne, WY; PRT–29821B

B. Endangered Marine Mammals and Marine Mammals

Applicant: Northwest Fisheries Science Center Forensics Laboratory, Charleston, SC; PRT–10941B

The applicant requests a permit to export/re-export and import/re-import specimens from any endangered or threatened FWS-jurisdiction marine mammal species, including species from Sirenia (*Trichechus manatus, T. senegalensis, T. inunguis,* and *Dugong dugon*), walrus (*Odobenus rosmarus*), marine otters (*Lontra felina*), sea otters (*Enhydra lutris*), and polar bears (*Ursus maritimus*) for the purpose of forensics activities which will directly or indirectly enhance the survival of the species in the wild for the purpose of scientific research. In addition, the request includes endangered or threatened specimens from Proboscidea and Cheloniidae as noted in Section A of this notice. This notification covers activities to be conducted by the applicant over a 5-year period.

Concurrent with publishing this notice in the **Federal Register**, we are forwarding copies of the above applications to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Brenda Tapia,

Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority.

[FR Doc. 2014–06217 Filed 3–20–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WYW 182138]

Notice of Application for Withdrawal and Opportunity for Public Meeting, Medicine Wheel/Medicine Mountain National Historic Landmark; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The United States Department of Agriculture (USDA) Forest Service (FS) has filed an application with the Bureau of Land Management (BLM) requesting that the Secretary of the Interior withdraw approximately 4,513 acres of National Forest System land from mining in order to protect and preserve existing heritage resources and American Indian spiritual values within the formally designated Medicine Wheel/Medicine Mountain National Historic Landmark (NHL). Publication of this notice segregates the public lands for up to 2 years from location and entry under the United States mining laws and gives the public an opportunity to comment on the application and to request a public meeting. The land has been and will remain open to such forms of disposition allowed by law on National Forest System land and to mineral leasing.

DATES: Comments and requests for a public meeting must be received on or before June 19, 2014.

ADDRESSES: Comments and meeting requests should be sent to the BLM Wyoming State Office, 5353 Yellowstone Road, Cheyenne, Wyoming 82009.

FOR FURTHER INFORMATION CONTACT: Gayle Laurent, USDA Forest Service, Region 2, Supervisors Office, 2013 Eastside Second Street, Sheridan, Wyoming 82801; telephone 307–674–2656; email *glaurent@fs.fed.us;* or Janelle Wrigley, BLM Wyoming State Office, 5353 Yellowstone Road, Cheyenne, Wyoming 82009; telephone 307–775–6257; email *jwrigley@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. 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 is the USDA Forest Service. The application requests the Secretary of the Interior to withdraw, subject to valid existing rights, the following described National Forest System land from location and entry under the United States mining laws, but not from the mineral leasing laws, for a period of 20 years, to protect and preserve existing heritage resources and American Indian spiritual values within the formally designated Medicine Wheel/Medicine Mountain NHL:

Sixth Principal Meridian, Wyoming

T. 56 N., R. 91 W.,
  Sec. 19, lot 1.
T. 56 N., R. 92 W.,
  Sec. 8, SE¼;
  Sec. 9, S½;
  Sec. 10, W½SW¼;
  Sec. 13, S½NW¼ and SW¼;
  Sec. 14, W½NW¼ and S½;
  Sec. 15, E½, NW¼, N½SW¼, and SE¼SW¼;
  Sec. 16, N½, SW¼, N½SE¼, and SW¼SE¼;
  Sec. 17, E½;
  Sec. 20, NE¼;
  Sec. 21, N½;
  Sec. 22, N½ and N½SE¼, excepting a strip of land 200 feet on each side of the center line of the Medicine Wheel Road, No. 104 in the N½;
  Sec. 23, N½, N½SW¼, and N½SE¼, excepting a strip of land 200 feet on each side of the center line of the Medicine Wheel Road, No. 104 in the N½, N½SW¼, and N½SE¼;
  Sec. 24, lots 1 and 2, W½NE¼, and W½, excepting a strip of land 200 feet on each side of the center line of the Medicine Wheel Road, No. 104 in the W½;
  Sec. 25, N½NW¼, excepting a strip of land 200 feet on each side of the center line of the Medicine Wheel Road, No. 104 in the N½NW¼.

The area described contains approximately 4,513 acres in Big Horn County.

The purpose of the proposed withdrawal is to protect and preserve existing heritage resources and American Indian spiritual values within the formally designated Medicine Wheel/Medicine Mountain NHL. The original NHL boundary, designated on September 6, 1970, encompassed an area 110 acres in size surrounding the central Medicine Wheel feature. The area was designated for its archaeological significance, as one of the largest and best preserved medicine wheels in the country. The NHL received a name and boundary change from the Secretary of the Interior in 2011, which increased the site to almost 4,000 acres. The reason for the difference in acreage is because the boundary of the NHL could not be legally described in the FRN. The BLM supervisory cadastral surveyor worked with the FS surveyor to create a withdrawal boundary with a legal description that could be described in the FRN.

The use of a right-of-way, interagency or cooperative agreement would not adequately constrain nondiscretionary uses which could result in permanent loss of significant values and irreplaceable resources.

There are no suitable alternative sites as the described lands contain the heritage resources and American Indian spiritual values in need of protection.

No water rights would be needed to fulfill the purpose of the requested withdrawal.

Records relating to the application may be examined by contacting Janelle Wrigley, BLM Wyoming State Office, at the above address; telephone 307–775–6257; email *jwrigley@blm.gov.*

For the period until June 19, 2014, all persons who wish to submit comments, suggestions or objections in connection with the requested withdrawal application may present their views in writing to the BLM Wyoming State Office at the address noted above. Comments, including names and street addresses of respondents, will be available for public review at the BLM Wyoming State Office at the address above during regular business hours 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal 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 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. Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the BLM Wyoming State Director no later than June 19, 2014. If the authorized officer determines that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** and through local newspapers, at least 30 days before the scheduled date of the meeting.

For a period until June 19, 2016, the lands described in this notice will be segregated from location and entry under the United States mining laws unless the application is denied or cancelled or the withdrawal is approved prior to that date. Licenses, permits, cooperative agreements or discretionary

land use authorizations of a temporary nature which will not significantly impact the values to be protected by the withdrawal may be allowed with the approval of the authorized officer of the USDA FS during the temporary segregative period.

This application will be processed in accordance with the regulations set forth in 43 CFR 2310.3.

Donald A. Simpson,

Wyoming State Director.

[FR Doc. 2014–06184 Filed 3–20–14; 8:45 am]

BILLING CODE 4310–11–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLIDI03000.L71220000.EX0000.XXXX. LVTFD0977180; IDI–33145, IDI–35728]

Notice of Availability of the Draft Environmental Impact Statement and Resource Management Plan Amendment for the Proposed Modification to the Thompson Creek Mine Plan of Operations, Section 404 Clean Water Act Permit Application, and Public Land Disposal, Custer and Bannock Counties, Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability.

SUMMARY: In compliance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended (FLPMA), the Bureau of Land Management (BLM), Challis Field Office, Idaho, has prepared a draft environmental impact statement (EIS) and draft resource management plan (RMP) amendment for a proposed modified mining plan of operations (MMPO) for the Thompson Creek molybdenum mine and a related Section 404 Clean Water Act (CWA) permit application and land exchange proposal. The BLM announces the availability of the draft EIS/RMP amendment and the start of the comment period for the draft EIS/RMP amendment.

DATES: To ensure comments will be considered, the BLM must receive written comments on the draft EIS/RMP amendment within 90 days following the date the Environmental Protection Agency publishes a Notice of Availability in the **Federal Register**. The BLM will announce future public meetings and any other public involvement activities at least 15 days in advance through public notices, media releases, and/or mailings.

ADDRESSES: You may submit comments or request your name be added to the mailing list for the project by any of these methods:

- *Email: BLM_ID_TCM_EIS@blm.gov;*
- *Fax:* 208–879–6219 (please reference ''TCM EIS''); or
- *Mail:* TCM EIS, Bureau of Land Management, Challis Field Office, 1151 Blue Mountain Road, Challis, ID 83226.

Copies of the draft EIS/RMP amendment are available in the BLM Challis Field Office at the address listed above from 7:45 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays. Copies of the draft EIS/RMP amendment are also available at *http://www.blm.gov/id/st/en/prog/nepa_register/TCM-exlx_EIS.html.*

FOR FURTHER INFORMATION CONTACT: Ken Gardner, project manager, at the BLM Challis Field Office, telephone: 208–879–6210; address: 1151 Blue Mountain Road, Challis, ID 83226; email: *ksgardner@blm.gov.* Persons who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339 to contact the above individual. The FIRS is available 24 hours a day, 7 days a week, to leave a message for the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The draft EIS analyzes the potential environmental effects of the proposed MMPO, Section 404 CWA permit, RMP amendment, and land exchange pursuant to the NEPA. In response to these proposals: (1) The BLM will decide whether to approve the portion of an MMPO involving BLM-administered land under BLM regulations at 43 CFR 3809; (2) The US Forest Service will decide whether to approve the portion of an MMPO involving National Forest System land under Forest Service regulations at 36 CFR 228, Subpart A; (3) The US Army Corps of Engineers (USACE) will decide whether to issue a permit under Section 404 of the CWA and USACE regulations at 33 CFR 320 to discharge fill materials into waters of the US; (4) The BLM will decide whether to amend the Challis Field Office 1999 RMP pursuant to Section 202 of the FLPMA and BLM regulations at 43 CFR 1600 to identify the BLM-administered land in the land exchange proposal as available for disposal (exchange or sale); and (5) The BLM will decide whether to approve a land disposal action. The cooperating agencies for the draft EIS/RMP amendment are the Forest Service, Salmon-Challis National Forest; USACE, Walla Walla District; US Environmental Protection Agency, Region 10; Idaho Department of Environmental Quality, Idaho Falls Regional Office; and Idaho Department of Lands, Eastern Idaho Supervisory Area Office.

The BLM, Forest Service, and Idaho Department of Lands each administer their respective portions of a single plan of operations for the mine. If the BLM approves the land exchange, Thompson Creek Mining Company (TCMC) would obtain title to nearly all of the BLM-administered land involved with the mine. In such case, the few mine support features (i.e., pipelines, power lines, access roads, and a pump station) remaining on BLM-administered land could continue to be authorized by a portion of the plan of operations administered by the BLM, or by grants for rights-of-ways and special use permits under the FLPMA. In the latter case, only the Forest Service and the Idaho Department of Lands would administer the plan of operations. Regardless, the BLM must issue a decision on the MMPO because any title transfer would not occur until several months after any decision approving an RMP amendment and land disposal action.

TCMC owns and operates the mine, which is 7 miles northwest of Clayton and 21 miles southwest of Challis in Custer County, Idaho. The mine has been in operation since 1981 and is authorized for approximately 3,300 acres of surface disturbance, of which approximately 2,300 acres are on private land, approximately 750 acres are on BLM-administered land, and approximately 250 acres are on National Forest System land. The current surface disturbance at the mine is approximately 2,800 acres. The MMPO would allow an approximate 10-year extension of the mine life and expansion of the waste rock and tailings storage facilities, requiring additional authorized surface disturbance on approximately 200 acres of BLM-administered land, 150 acres of National Forest System land, and 80 acres of private land.

The land exchange proposal is an offer to exchange approximately 900 acres of private lands owned by TCMC in Custer and Bannock counties for approximately 5,100 acres of selected, BLM-administered land involving the mine in Custer County, including nearly all of the BLM-administered land involved in the MMPO. The offered lands are the Broken Wing Ranch (813 acres) in Custer County and the Garden Creek property (82 acres) in Bannock County. The ranch borders several miles of the Salmon River, and the Garden Creek property contains a portion of the headwaters of Garden Creek. Public

ownership of these lands would prevent their subdivision and development, enhance habitat for four threatened and endangered fish species and a variety of wildlife, and substantially increase public access to the Lyon Creek drainage in Custer County. The Challis RMP does not identify the selected land as available for disposal. Therefore, in addition to evaluating the land exchange proposal, the draft EIS also evaluates amending the RMP to identify the selected land as suitable for disposal pursuant to the FLPMA.

The BLM published the notice of intent to prepare an EIS in the **Federal Register** on August 3, 2010 (75 FR 45652). The BLM held public meetings in Boise, Idaho on August 23, 2010 and in Challis, Idaho on August 24, 2010. The BLM also published a notice of exchange proposal for 4 consecutive weeks in April and May 2013 in newspapers of general circulation in the counties containing the selected and offered lands. Scoping identified multiple issues for nearly all of the elements of the human environment, e.g., socio-economic factors, water resources, tribal treaty rights, etc. These issues are described in the Scoping and Alternatives report available at *http://www.blm.gov/id/st/en/prog/nepa_register/TCM-exlx_EIS.html.*

In response to these issues, the agencies have developed a set of MMPO alternatives and a set of independent land disposal alternatives which are described in the Scoping and Alternatives report and analyzed in the draft EIS:

- Alternative M1—No Action. TCMC would complete mining and reclamation under the current mining plan of operations (Phase 7), with molybdenum mining ending in approximately 2015. Approximately 2,800 acres would be disturbed;
- Alternative M2—MMPO as submitted by TCMC. TCMC would complete mining and reclamation under the proposed MMPO (Phase 8), with molybdenum mining ending in approximately 2025. The two existing waste rock storage facilities would be enlarged. Approximately 3,300 acres would be disturbed (which includes the disturbance of Alternative M1);
- Alternative M3—No Name Waste Rock Facility. A variation of Alternative M2 in which TCMC would develop a new waste rock storage facility in the No Name drainage, with less waste rock placed into the two existing waste rock storage facilities. Approximately 3,400 acres would be disturbed (which includes the disturbance of Alternative M1);
- Alternative L1—No Action. The BLM would not amend the RMP and the land exchange would not occur. Mining would occur according to the selected MMPO alternative. That is, the MMPO alternatives do not depend on the outcome of the land disposal alternatives; TCMC would not operate the mine any differently if the BLM-administered land in the land exchange proposal were owned by TCMC or continued to be administered by the BLM. This is the case for all of the land disposal alternatives;
- Alternative L2—Land Exchange Proposal submitted by TCMC. The BLM would amend the RMP, TCMC would acquire up to approximately 5,100 acres of BLM-administered land, and the US would acquire up to approximately 900 acres of private land that would be administered by the BLM.
- Alternative L3—Land Sale. The BLM would amend the RMP allowing conveyance of up to approximately 5,100 acres of BLM-administered land to TCMC via a sale at the appraised fair market value pursuant to Section 203 of the FLPMA;
- Alternative L4—Reduced Area Land Exchange, Fee Simple. The BLM would amend the RMP, TCMC would acquire approximately 3,600 acres of BLM-administered land, and the US would acquire approximately 30 percent less private land by fair market value compared to Alternative L2; and
- Alternative L5—Reduced Area Land Exchange, Easement. The BLM would amend the RMP and TCMC would acquire approximately 5,100 acres of BLM-administered land, but with a conservation easement on approximately 1,500 acres. The US would accordingly acquire approximately 10 percent less private land by fair market value.

The BLM and Forest Service preferred MMPO alternative is Alternative M2. The BLM preferred land disposal alternative is Alternative L2. Pursuant to the notice of intent (75 FR 45652) and this notice, the BLM is complying with the requirements in 43 CFR 1610.2 to notify the public of potential amendments to land use plans, based on the analysis in an EIS. The BLM will continue to integrate the land use planning process with the NEPA process for the EIS. The BLM will utilize and coordinate the NEPA commenting process to satisfy the public involvement for Section 106 of the National Historic Preservation Act (16 U.S.C. 470f) as provided for in 36 CFR 800.2(d)(3). The responsible officials for the proposed actions are the Field Manager, Challis Field Office, BLM (MMPO); District Manager, Idaho Falls District, BLM (land disposal); State Director, Idaho State Office, BLM (RMP amendment); Forest Supervisor, Salmon-Challis National Forest, Forest Service (MMPO); and Chief, Regulatory Division, Walla Walla District, USACE (404 Permit).

Please be aware that your entire comment—including any personal identifying information such as your address, phone number, email address, etc.—may be made publicly available at any time. While you may ask the BLM to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 42 U.S.C. 4321 *et seq.;* 33 CFR 325.3; 43 CFR 1610.2.

Todd Kuck,

Challis Field Manager.

[FR Doc. 2014–06113 Filed 3–20–14; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCON02000 L16100000.DQ0000]

Notice of Availability of the Proposed Resource Management Plan and Final Environmental Impact Statement for the Kremmling Field Office, Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended, and the Federal Land Policy and Management Act of 1976, as amended, the Bureau of Land Management (BLM) has prepared a Proposed Resource Management Plan (RMP)/Final Environmental Impact Statement (EIS) for the Kremmling Field Office Planning Area and by this notice is announcing its availability.

DATES: The BLM planning regulations provide that any person who meets the conditions as described in the regulations may protest the BLM's Proposed RMP/Final EIS. A person who meets the conditions and files a protest must file the protest within 30 days of the date that the Environmental Protection Agency publishes its notice of availability in the **Federal Register**.

ADDRESSES: The BLM sent copies of the Kremmling Proposed RMP/Final EIS to affected Federal, State, and local government agencies; other stakeholders; Tribal governments; and members of the public who requested copies. Copies of the Proposed RMP/Final EIS are available for public

inspection at the BLM Kremmling Field Office, 2103 East Park Avenue, Kremmling, CO 80459. Interested persons may also review the Proposed RMP/Final EIS on the Internet at *http://www.blm.gov/co/st/en/fo/kfo.html.* All protests must be in writing and mailed to one of the following addresses: Regular Mail: BLM Director (210), Attention: Protest Coordinator, P.O. Box 71383, Washington, DC 20024–1383. Overnight Delivery: BLM Director (210), Attention: Protest Coordinator, 20 M Street SE., Room 2134LM, Washington, DC 20003.

FOR FURTHER INFORMATION CONTACT: Dennis Gale, project manager; telephone: 970–724–3003; address: BLM Kremmling Field Office, P.O. Box 68, Kremmling, CO 80459; email: *dgale@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 Proposed RMP/Final EIS addresses management of public lands and resources within the Kremmling Field Office planning area, which includes Grand, Jackson, Summit and parts of Larimer and Eagle counties, Colorado. Public lands and resources in the Kremmling Field Office are currently managed under the 1984 Kremmling RMP, as amended. The planning area includes approximately 377,900 acres of BLM-administered surface estate and approximately 653,500 acres of subsurface Federal mineral estate.

The Proposed RMP/Final EIS is a mix of the actions presented and analyzed in the four alternatives in the Draft RMP/EIS. The Draft RMP alternatives emphasized: continuation of current management (No Action—Alternative A); allocation of limited resources to meet the demands of competing land uses while conserving natural and cultural resources (Preferred—Alternative B); resource protection and preservation of the ecological integrity of habitats for all priority plant, wildlife and fish species, particularly the habitats needed for the conservation and recovery of threatened and endangered plant and animal species (Alternative C); and maximizing resource production while maintaining the basic protections needed to sustain resources (Alternative D). The alternatives varied accordingly in their resource management actions addressing the 12 major planning issues identified in the initial public scoping process for the RMP revision. The planning issues are recreation demand and uses, special designations, energy development, wildlife habitat management, sagebrush habitat and sagebrush-dependent species, vegetation, travel management and transportation, lands and realty, wildland-urban interface, rangeland health and upland management, water and riparian resources and cultural resources. The management actions selected for the Proposed RMP are a mix of actions from the alternatives in the Draft RMP that best meet the purpose and need for the RMP and respond to the major planning issues.

The Proposed RMP includes, among an extensive list of management actions, designating and managing 4 special recreation management areas and 1 extensive recreation management area; protecting wilderness characteristics on 544 acres of lands adjacent to the Troublesome Wilderness Study Area; managing to protect a variety of special status plant and animal species, including the Greater Sage-Grouse; designating 14 core wildlife areas (8 in Jackson County and 6 in Grand County); implementing a Stakeholder's Management Plan to manage 2 Colorado River segments eligible for Wild and Scenic River designation; designating 8 Areas of Critical Environmental Concern (ACEC); continuing to manage 3 existing Wilderness Study Areas; and designating motorized and non-motorized travel routes on the public lands within the planning area.

The Proposed RMP also includes a Master Leasing Plan (MLP) to facilitate the exploration and development of oil and gas resources in the North Park MLP area (390,600 acres) while resolving possible conflicts with future leasing and development and ensuring protection of the area's resources and resource uses, including, but not limited to: air quality, soils, water, riparian, fish and wildlife, Special Status Species, recreation and ACECs.

Comments on the Draft RMP/Draft EIS received from the public and internal BLM review were considered and incorporated as appropriate into the proposed plan. Public comments resulted in the addition of clarifying text, but did not significantly change proposed land use plan decisions.

Instructions for filing a protest with the Director of the BLM regarding the Proposed RMP/Final EIS may be found in the ''Dear Reader'' Letter of the Kremmling Proposed RMP/Final EIS and at 43 CFR 1610.5–2. All protests must be in writing and mailed to the appropriate address, as set forth in the **ADDRESSES** section above. Emailed protests will not be accepted as valid protests unless the protesting party also provides the original letter by either regular or overnight mail postmarked by the close of the protest period. Under these conditions, the BLM will consider the emailed protest as an advance copy and it will receive full consideration. If you wish to provide the BLM with such advance notification, please direct emails to *protest@blm.gov.*

Before including your phone number, email address, or other personal identifying information in your protest, you should be aware that your entire protest—including your personal identifying information—may be made publicly available at any time. While you can ask us in your protest 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, 43 CFR 1610.5.

Ruth Welch,

BLM Colorado Acting State Director.

[FR Doc. 2014–06183 Filed 3–20–14; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVE03000 L5110000.GN0000LVEMF1201550 241A; NVN–091032; 14–08807; MO# 4500058790]

Notice of Availability of the Draft Environmental Impact Statement for the Proposed Long Canyon Mine Project, Elko County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In compliance with the National Environmental Policy Act of 1969, as amended, and the Federal Land Policy and Management Act of 1976, as amended, the Bureau of Land Management (BLM) has prepared a Draft Environmental Impact Statement (EIS) for the proposed Long Canyon Mine Project and by this notice is announcing the opening of the comment period.

DATES: To ensure comments will be considered, the BLM must receive written comments on the Long Canyon Mine Project Draft EIS within 45 days following the date the Environmental Protection Agency publishes its Notice of Availability in the **Federal Register**. The BLM will announce future public meetings or other public involvement activities at least 15 days in advance

through public notices, media releases, and/or mailings.

ADDRESSES: You may submit comments related to the Long Canyon Mine Project by any of the following methods:

- *Email: BLM_NV_ELDOLongCanyonMine@blm.gov.*
- *Fax:* 775–861–6601
- *Mail:* Bureau of Land Management, Long Canyon Mine Project, Attention: Whitney Wirthlin, 1340 Financial Boulevard, Reno, NV 89502

Copies of the Long Canyon Mine Project Draft EIS are available in the Elko District Office at the above address and on online at: *http://www.blm.gov/nv/st/en/fo/elko_field_office/blm_information/nepa/long_canyon_eis__7.html*

FOR FURTHER INFORMATION CONTACT: Whitney Wirthlin, Project Manager; telephone: 775–861–6400; address: 1340 Financial Boulevard, Reno, NV 89502; email: *BLM_NV_ELDOLongCanyonMine@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, seven days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: Newmont Mining Corporation (Newmont) proposes to construct and operate an open-pit gold mining operation, which would include one open pit, a heap leach pad, one waste rock dump, a tailings storage facility, a natural gas pipeline from the existing Ruby Pipeline, an onsite power generation plant, and other ancillary facilities. The mine would be located on the eastern side of the Pequop Mountain Range, about 30 miles east of Wells, Nevada, and 32 miles west of West Wendover, Nevada, and 5 miles south of Interstate 80. Currently, Fronteer Development (USA) Inc. (Fronteer), a subsidiary of Newmont, is authorized to disturb up to 115 acres for exploration purposes. The associated disturbance for the proposed operations would increase to 1,631 acres of public land, including 480 acres of split estate lands of Federal surface and private subsurface. The projected life of the mine is 8 to 14 years, including construction, operations, closure, and post-closure monitoring. An estimated annual workforce for operations would be approximately 300 to 500 people during the life of the mine.

Fronteer is currently conducting exploration activities in this area which were analyzed in two environmental assessments (EA), the *NewWest Gold USA Inc. Long Canyon Exploration Project* (July 2008, EA No. BLM/EK/PL–2008/011) and *Fronteer Development (USA) Inc. Expanded Long Canyon Exploration Project* (June 2011, DOI–BLM–NV–N030–2011–00001–EA). The proposed Long Canyon Mine is in conformance with the Wells Resource Management Plan (RMP) and the proposal is in conformance with the approved decisions of the RMP.

The Draft EIS describes and analyzes the proposed project site-specific impacts (including cumulative) on all affected resources. Two alternatives are analyzed: The North Facilities Alternative and the No Action Alternative. The North Facilities Alternative was designed in response to several environmental issues raised by scoping comments. Under the North Facilities Alternative, most of the mine facilities would be moved to the northern portion of the project area. This alternative addresses impacts to several wildlife species, cultural resources, and responds to requests from the cities of West Wendover, Nevada, and Wendover, Utah, related to potential impacts to their water supply.

Six other alternatives were considered but eliminated from further analysis. Mitigation measures are considered to minimize environmental impacts and to assure the proposed action does not result in unnecessary or undue degradation of public lands.

The BLM received a total of 31 written comment submissions containing 80 items during the public scoping period. The comments the BLM received were submitted by Federal and State agencies as well as members of the general public.

Concerns raised during scoping include: Potential impacts to cultural resources, including impacts to the Hastings Cutoff of the California National Historic Trail; impacts to the habitat of Greater Sage-Grouse; impacts to mule deer winter range and migration patterns; impacts to air quality through point (equipment) and non-point (waste rock disposal areas) pollution sources; changes to the quantity and quality of surface water and groundwater, especially the Big Spring and Johnson Spring complex which is the water resource for West Wendover and Wendover; potential noise impacts to wildlife in the area; impacts to general health of the rangeland resources; potential release of pollutants and hazardous materials to the environment during operations and following closure; increase in light pollution in the area and direct visual impacts from mine facilities; positive and negative socioeconomic impacts to the communities of Wells, Wendover, West Wendover, the Wells Colony and Elko County; and cumulative impacts to wildlife, cultural, air, water, lands and realty, socioeconomics, and vegetation resources.

The BLM has prepared the Draft EIS in conjunction with its eight Cooperating Agencies: Nevada Department of Wildlife; Elko County; City of Elko; City of West Wendover; City of Wendover, Utah; the Confederated Tribes of the Goshute Indian Reservation; the Nevada Division of Environmental Protection; and the Environmental Protection Agency.

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. to 4:30 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.

Bryan K. Fuell,
Field Manager, Wells Field Office.

[FR Doc. 2014–06112 Filed 3–20–14; 8:45 am]
BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWO2600000 L10600000 XQ0000]

Wild Horse and Burro Advisory Board Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM) announces that the Wild Horse and Burro Advisory Board will conduct a meeting on matters pertaining to management and protection of wild, free-roaming horses and burros on the Nation's public lands.

DATES: The Advisory Board will meet on Monday, April 14, 2014, from 8 a.m. to 5 p.m. Pacific Time (PT) and Tuesday,

April 15, 2014, from 8 a.m. to 5 p.m. PT. This will be a 2-day meeting.

ADDRESSES: This Advisory Board meeting will take place in Sacramento, California, at the Courtyard by Marriott Sacramento Cal Expo, 1782 Tribute Road, Sacramento, CA 95815, 916–929–7900.

Written comments pertaining to the April 14–15, 2014, Advisory Board meeting can be mailed to National Wild Horse and Burro Program,WO–260, Attention: Ramona DeLorme, 1340 Financial Boulevard, Reno, NV 89502–7147, or sent electronically to *wildhorse@blm.gov.* Please include ''Advisory Board Comment'' in the subject line of the email.

FOR FURTHER INFORMATION CONTACT: Ramona DeLorme, Wild Horse and Burro Administrative Assistant, at 775–861–6583. 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 Ms. DeLorme during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question for Ms. DeLorme. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The Wild Horse and Burro Advisory Board advises the Secretary of the Interior, the BLM Director, the Secretary of Agriculture, and the Chief of the Forest Service on matters pertaining to the management and protection of wild, free-roaming horses and burros on the Nation's public lands. The Wild Horse and Burro Advisory Board operates under the authority of 43 CFR 1784. The tentative agenda for the 2-day event is:

I. Advisory Board Public Meeting

Monday, April 14, 2014 (8 a.m.–5 p.m.)

8:00 a.m. Welcome and Introductions
8:30 a.m. Agenda Review
9:00 a.m. Approval of September 2013 Minutes
9:20 a.m. BLM Response to Advisory Board Recommendations
9:40 a.m. Wild Horse and Burro Program Update
11:45 a.m. Lunch
1:00 p.m. Wild Horse and Burro Program Update continued
3:00 p.m. Public Comment Period Begins
4:30 p.m. Public Comment Period Ends
5:00 p.m. Adjourn

Tuesday, April 15, 2014 (8 a.m.–5 p.m.)

8:00 a.m. Wild Horse and Burro Program Update continued
Noon Lunch
1:00 p.m. Working Group Reports
2:15 p.m. Advisory Board Discussion and Recommendations to the BLM
5:00 p.m. Adjourn

The meeting site is accessible to individuals with disabilities. An individual with a disability needing an auxiliary aid or service to participate in the meeting, such as an interpreting service, assistive listening device, or materials in an alternate format, must notify Ms. DeLorme 2 weeks before the scheduled meeting date. Although the BLM will attempt to meet a request received after that date, the requested auxiliary aid or service may not be available because of insufficient time to arrange it.

The Federal Advisory Committee Management Regulations at 41 CFR 101–6.1015(b), requires the BLM to publish in the **Federal Register** notice of a public meeting 15 days prior to the meeting date.

II. Public Comment Procedures

On Monday, April 14, 2014, at 3 p.m., members of the public will have the opportunity to make comments to the Board on the Wild Horse and Burro Program. Persons wishing to make comments during the Monday meeting should register in person with the BLM by 2 p.m. on April 14, 2014, at the meeting location. Depending on the number of commenters, the Advisory Board may limit the length of comments. At previous meetings, comments have been limited to 3 minutes in length; however, this time may vary. Commenters should address the specific wild horse and burro-related topics listed on the agenda. Speakers are requested to submit a written copy of their statement to the address listed in the ''**ADDRESSES**'' section above or bring a written copy to the meeting. There may be a webcam present during the entire meeting and individual comments may be recorded.

Participation in the Advisory Board meeting is not a prerequisite for submission of written comments. The BLM invites written comments from all interested parties. Your written comments should be specific and explain the reason for any recommendation. The BLM appreciates any and all comments. The BLM considers comments that are either supported by quantitative information or studies or those that include citations to and analysis of applicable laws and regulations to be the most useful and likely to influence the BLM's decisions on the management and protection of wild horses and burros.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: March 7, 2014.

Gregory Shoop,

Deputy Assistant Director, Resources and Planning.

[FR Doc. 2014–06186 Filed 3–20–14; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–15112; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before February 22, 2014. Pursuant to section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation. Comments may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., MS 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service,1201 Eye St. NW., 8th floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by April 7, 2014. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: February 25, 2014.

J. Paul Loether,

Chief, National Register of Historic Places/ National Historic Landmarks Program.

CALIFORNIA

Sacramento County

New Helvetia Historic District, 752 Revere St., Sacramento, 14000109

San Mateo County

Pilarcitos Creek Bridge, (Highway Bridges of California MPS) Main St. across Pilarcitos Cr., Half Moon Bay, 14000110

ILLINOIS

St. Clair County

Town of West Belleville Historic District, Roughly bounded by 16th, W. E & S. 9th Sts., Illinois Central Gulf RR, Richland Cr., Belleville, 14000111

IOWA

Johnson County

Bowery Street Grocery Store, 518 E. Bowery St., Iowa City, 14000112

Polk County

Des Moines Fire Department Headquarters—Fire Station No. 1 and Shop Building, 900 Mulberry St., 100 9th St., Des Moines, 14000113

KANSAS

Decatur County

Norcatur City Hall, (New Deal-Era Resources of Kansas MPS) 107 N. Decatur Ave., Norcatur, 14000114

Dickinson County

Birchmore, John W., House, 1204 N. Buckeye Ave., Abilene, 14000116

Doniphan County

Minier, Abram M., House, (Highland, Doniphan County, Kansas MPS) 307 South Ave., Highland, 14000115

Johnson County

Lone Elm Campground Swale, (Santa Fe Trail MPS) 21151 W. 167th St., Olathe, 14000121

Lincoln County

Sylvan Grove Union Pacific Depot, (Railroad Resources of Kansas MPS) 131 S. Main St., Sylvan Grove, 14000118

Neosho County

Truitt, James and Ella, House, 305 N. Steuben Ave., Chanute, 14000117

Rice County

Little Arkansas River Crossing, (Santa Fe Trail MPS) NE. of jct. Ave. P & 30th Rd., Windom, 14000122

Rush County

Sand Creek Tributary Stone Arch Bridge, (Masonry Arch Bridges of Kansas TR) 2 mi. W, 1.4 mi. N. of La Crosse, La Crosse, 14000120

Washington County

Lowe Center School—District 115, (Public Schools of Kansas MPS) SW. corner Indian & 27th Rds., Morrowville, 14000119

MICHIGAN

Delta County

Escanaba Central Historic District, Roughly 200–1800 blks. Ludington St., Escanaba, 14000123

Ingham County

Genesee Street School, 835 W. Genesee St., Lansing, 14000124

Kalamazoo County

Sparks—Anderson House, 7653 W. Main St., Oshtemo Township, 14000125

Shiawassee County

Owosso Downtown Historic District, Roughly bounded by Shiawassee R., Comstock, Water, Park and Mason Sts., Owosso, 14000126

NEW YORK

Franklin County

Northbrook Lodge, 58 Northbrook Rd., Paul Smiths, 14000127

Onondaga County

Odd Fellows Lodge and Temple, 212 Ash St., 823 N. Townsend St., Syracuse, 14000128

Orange County

New York, Ontario & Western Railway Company Middletown Station, 2 Low Ave., Middletown, 14000129

Rensselaer County

Howard—Odmin—Sherman Farmstead, 393 Croll Rd., Pittstown, 14000130

Rockland County

Shadowcliff, 521 N. Broadway, Upper Nyack, 14000131

Saratoga County

Jonesville Cemetery, Ushers & Longkill Rds., Jonesville, 14000132

VERMONT

Rutland County

Watkins School, 26 Watkins Ave., Rutland, 14000133

WYOMING

Lincoln County

La Barge Bluffs Petroglyphs, Address Restricted, La Barge, 14000134

[FR Doc. 2014–06185 Filed 3–20–14; 8:45 am]

BILLING CODE 4312–51–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–455 and 731–TA–1149 (Review)]

Circular Welded Carbon Quality Steel Line Pipe From China; Scheduling of Expedited Five-Year Reviews Concerning the Countervailing and Antidumping Duty Orders on Circular Welded Carbon Quality Steel Line Pipe From China

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of expedited reviews pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)(3)) (the Act) to determine whether revocation of the countervailing and antidumping duty orders on circular welded carbon quality steel line pipe from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. 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 Date:* March 7, 2014.

FOR FURTHER INFORMATION CONTACT: William English (202–205–2388), 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 March 7, 2014, the Commission determined that the domestic interested party group response to its notice of institution (78 F.R. 72114, December 2, 2013) of the subject five-year reviews was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant

conducting full reviews.[1] Accordingly, the Commission determined that it would conduct expedited reviews pursuant to section 751(c)(3) of the Act.[2 3]

Staff report.—A staff report containing information concerning the subject matter of the reviews will be placed in the nonpublic record on April 4, 2014, and made available to persons on the Administrative Protective Order service list for these reviews. A public version will be issued thereafter, pursuant to section 207.62(d)(4) of the Commission's rules.

Written submissions.—As provided in section 207.62(d) of the Commission's rules, interested parties that are parties to the reviews and that have provided individually adequate responses to the notice of institution,[4] and any party other than an interested party to the reviews may file written comments with the Secretary on what determination the Commission should reach in the reviews. Comments are due on or before April 9, 2014, and may not contain new factual information. Any person that is neither a party to the five-year reviews nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the reviews by April 9, 2014. However, should the Department of Commerce extend the time limit for its completion of the final results of its reviews, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on E-Filing,* available on the Commission's Web site at *http://edis.usitc.gov,* elaborates upon the Commission's rules with respect to electronic filing.

In accordance with sections 201.16(c) and 207.3 of the 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 BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: March 18, 2014.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2014–06178 Filed 3–20–14; 8:45 am]

BILLING CODE 7020–02–P

[1] A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's Web site.

[2] Commissioner Shara L. Aranoff did not participate in these adequacy determinations.

[3] The Commission has the authority to toll statutory deadlines during a period when the government is closed. Because the Commission was closed on December 10, 2013, and on January 21, February 13, and March 3, 2014 due to inclement weather in Washington, DC, the statutory deadline may be tolled by up to four days.

[4] The Commission has found the responses submitted by the domestic interested parties to be individually adequate. Comments from other interested parties will not be accepted (*see* 19 CFR 207.62(d)(2)).

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Sulfentrazone, Sulfentrazone Compositions, and Processes for Making Sulfentrazone,* DN 3004; the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing under section 210.8(b) of the Commission's Rules of Practice and Procedure (19 CFR 210.8(b)).

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Acting Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *EDIS*,[1] and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server at United States International Trade Commission (USITC) at *USITC.*[2] The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *EDIS.*[3] Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to section 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of FMC Corporation on March 05, 2014. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain sulfentrazone, sulfentrazone compositions, and processes for making sulfentrazone. The complaint names as respondents Beijing Nutrichem Science and Technology Stock Co., Ltd. of Beijing; Summit Agro USA, LLC of Cary, NC; Summit Agro North America Holding Corporation of New York, NY; and Jiangxi Heyi Chemicals Co. Ltd. of China. The complainant requests that the Commission issue a temporary exclusion order and a temporary cease and desist order, a permanent exclusion order and a permanent cease and desist order.

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or section 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the

[1] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

[2] United States International Trade Commission (USITC): *http://edis.usitc.gov.*

[3] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register.** There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number (''Docket No. 3004'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, *Electronic Filing Procedures* [4]). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on *EDIS*.[5]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of sections 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: March 6, 2014.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2014–06177 Filed 3–20–14; 8:45 am]

BILLING CODE 7020–02–P

[4] Handbook for Electronic Filing Procedures: *http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf.*

[5] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

INTERNATIONAL TRADE COMMISSION

[USITC SE–14–008]

Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission

TIME AND DATE: March 25, 2014 at 10:30 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. 731–TA–1140–1142 (Review)(Uncovered Innerspring Units from China, South Africa, and Vietnam). The Commission is currently scheduled to complete and file its determinations and views of the Commission on April 3, 2014.
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: March 18, 2014.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2014–06321 Filed 3–19–14; 11:15 am]

BILLING CODE 7020–02–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (14–029)]

Notice of Intent To Grant Partially Exclusive License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Intent To Grant Partially Exclusive License.

SUMMARY: This notice is issued in accordance with 35 U.S.C. 209(e) and 37 CFR 404.7(a)(1)(i). NASA hereby gives notice of its intent to grant a partially exclusive license in the United States to practice the invention described and claimed in U.S. Patent 7,735,265 entitled Foam Rigidized Inflatable Structural Assemblies, to Marblar, having its principal place of business in London, England. The patent rights in these inventions as applicable have been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The prospective partially exclusive license will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. NASA has not yet made a determination to grant the requested license and may deny the requested license even if no objections are submitted within the comment period.

DATES: The prospective partially exclusive license may be granted unless, within fifteen (15) days from the date of this published notice, NASA receives written objections including evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7. Competing applications completed and received by NASA within fifteen (15) days of the date of this published notice will also be treated as objections to the grant of the contemplated exclusive license.

Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

ADDRESSES: Objections relating to the prospective license may be submitted to Mr. James J. McGroary, Chief Patent Counsel/LS01, Marshall Space Flight Center, Huntsville, AL 35812, (256) 544–0013.

FOR FURTHER INFORMATION CONTACT: Mr. Sammy A. Nabors, Technology Transfer Office/ZP30, Marshall Space Flight Center, Huntsville, AL 35812, (256) 544–5226. Information about other NASA inventions available for licensing can be found online at *http://technology.nasa.gov.*

Sumara M. Thompson-King,

Deputy General Counsel.

[FR Doc. 2014–06157 Filed 3–20–14; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (14–028)]

Notice of Intent To Grant Partially Exclusive License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Intent To Grant Exclusive License.

SUMMARY: This notice is issued in accordance with 35 U.S.C. 209(e) and 37 CFR 404.7(a)(1)(i). NASA hereby gives notice of its intent to grant an exclusive license in the United States to practice the invention described and claimed in USPN 6,997,637, Deceleration-Limiting Roadway Barrier, NASA Case No. MSC–23178–1 to LifeNet Systems Inc., having its principal place of business in Wellborn, Florida. The patent rights in this invention have been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The prospective exclusive license will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7.

DATES: The prospective exclusive license may be granted unless within fifteen (15) days from the date of this published notice, NASA receives written objections including evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7. Competing applications completed and received by NASA within fifteen (15) days of the date of this published notice will also be treated as objections to the grant of the contemplated exclusive license.

Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

ADDRESSES: Objections relating to the prospective license may be submitted to Patent Counsel, Office of Chief Counsel, NASA Johnson Space Center, 2101 NASA Parkway, Houston, Texas 77058, Mail Code AL; Phone (281) 483–3021; Fax (281) 483–6936

FOR FURTHER INFORMATION CONTACT: Ms. Michelle P. Lewis, Technology Transfer and Commercialization Office/AO52, Johnson Space Center, Houston, TX 77058, (281) 483–8051. Information about other NASA inventions available for licensing can be found online at *http://technology.nasa.gov*.

Sumara M. Thompson-King,

Deputy General Counsel.

[FR Doc. 2014–06156 Filed 3–20–14; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (14–030)]

NASA Advisory Council; Aeronautics Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the Aeronautics Committee of the NASA Advisory Council. This Committee reports to the NAC. The meeting will be held for the purpose of soliciting, from the aeronautics community and other persons, research and technical information relevant to program planning.

DATES: Thursday, March 27, 2014, 9:00 a.m. to 5:00 p.m.; Friday, March 28, 2014, 9:00 a.m. to 12:15 p.m.; Local Times

ADDRESSES: NASA Headquarters, Room 6E40, 300 E Street SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Susan L. Minor, Executive Secretary for the Aeronautics Committee, NASA Headquarters, Washington, DC 20546, (202) 358–0566, or *susan.l.minor@nasa.gov*.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. Any person interested in participating in the meeting by WebEx and telephone should contact Ms. Susan L. Minor at (202) 358–0566 for the web link, toll-free number and passcode. The agenda for the meeting includes the following topics:

- NAC Aeronautics Committee Work Plan.
- NASA Aeronautics FY 2015 President's Budget Request.
- Aeronautics Research Mission Directorate Program Organization.
- Fundamental Aeronautics Program Foundational Technologies.
- University Engagement.
- System-Wide Safety Assurance Thrust Overview.

Attendees will be requested to sign a register and to comply with NASA security requirements, including the presentation of a valid picture ID to Security before access to NASA Headquarters. Foreign nationals attending this meeting will be required to provide a copy of their passport and visa in addition to providing the following information no less than 3 working days prior to the meeting: Full name; gender; date/place of birth; citizenship; visa information (number, type, expiration date); passport information (number, country, expiration date); employer/affiliation information (name of institution, address, country, telephone); title/position of attendee; and home address to Susan Minor, NASA Advisory Council Aeronautics Committee Executive Secretary, fax (202) 358–4060. U.S. citizens and Permanent Residents (green card holders) are requested to submit their name and affiliation 3 working days prior to the meeting to Susan Minor at (202) 358–0566. It is imperative that these meetings be held on this date to accommodate the scheduling priorities of the key participants.

This meeting will take place with less than 15 calendar days' notice due to the delay in the announcement of the FY 2015 Budget Request and associated activities.

Patricia D. Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2014–06202 Filed 3–20–14; 8:45 am]

BILLING CODE 7510–13–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on the Medical Uses of Isotopes: Renewal Notice

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: This notice is to announce the renewal of the Advisory Committee on the Medical Uses Isotopes (ACMUI) for a period of two years.

SUPPLEMENTARY INFORMATION: The U.S. Nuclear Regulatory Commission (NRC) has determined that the renewal of the Charter for the Advisory Committee on the Medical Uses of Isotopes for the two year period commencing on March 14, 2014, is in the public interest, in connection with duties imposed on the Commission by law. This action is being taken in accordance with the Federal Advisory Committee Act, after consultation with the Committee Management Secretariat, General Services Administration.

The purpose of the ACMUI is to provide advice to NRC on policy and technical issues that arise in regulating the medical use of byproduct material for diagnosis and therapy. Responsibilities include providing

guidance and comments on current and proposed NRC regulations and regulatory guidance concerning medical use; evaluating certain non-routine uses of byproduct material for medical use; and evaluating training and experience of proposed authorized users. The members are involved in preliminary discussions of major issues in determining the need for changes in NRC policy and regulation to ensure the continued safe use of byproduct material. Each member provides technical assistance in his/her specific area(s) of expertise, particularly with respect to emerging technologies. Members also provide guidance as to NRC's role in relation to the responsibilities of other Federal agencies as well as of various professional organizations and boards.

Members of this Committee have demonstrated professional qualifications and expertise in both scientific and non-scientific disciplines including nuclear medicine; nuclear cardiology; radiation therapy; medical physics; nuclear pharmacy; State medical regulation; patient's rights and care; health care administration; and Food and Drug Administration regulation.

For further information please contact: Sophie Holiday, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555; Telephone (301) 415–7865; email *Sophie.Holiday@nrc.gov*.

Dated at Rockville, Maryland, this 14th day of March, 2014.

For the U.S. Nuclear Regulatory Commission.

Andrew L. Bates,

Federal Advisory Committee Management Officer.

[FR Doc. 2014–06200 Filed 3–20–14; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71725; File No. SR–NSCC–2014–03]

Self-Regulatory Organizations; National Securities Clearing Corporation (''NSCC''); Notice of Filing of Proposed Rule Change To Enhance the System That Processes Corporate Actions Within NSCC's Continuous Net Settlement (''CNS'') System

March 14, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 6, 2014, National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by NSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consist [sic] of amendments to the Rules & Procedures (''Rules'') of NSCC to enhance the system that processes corporate actions within NSCC's Continuous Net Settlement (''CNS'') system, as more fully described below.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NSCC has recently enhanced the system that applies corporate actions to Members' open failed positions within CNS. While the enhancements to corporate action processing would not require NSCC Members to make any coding changes, NSCC is proposing to update Procedure VII of its Rules in order to reflect these enhancements.

One of NSCC's core service as a central counterparty is trade clearance and settlement through CNS, where compared and recorded transactions in eligible securities [3] for a particular settlement date are netted by issue into one net long (buy) or net short (sell) position. As a continuous net system, those positions are further netted with positions of the same issue that remain open after their originally scheduled settlement date (usually T+3), so that trades scheduled to settle on any day are netted with fail positions to result in a single deliver or receive obligation for each Member for each issue in which it has activity. As part of the services offered to NSCC Members, certain corporate actions, including cash dividends, stock dividends, bond interest, and other mandatory corporate actions (which include redemptions, stock and cash mergers, and name changes) are automatically debited or credited to Member's CNS accounts with open fail positions in CNS. Members are also permitted to take part in certain voluntary corporate actions, which include tender or exchange offers, with respect to open fail positions in CNS.

Enhancements to the processing of corporate actions within CNS, described below, would provide Members with more timely and detailed information regarding applicable corporate action events, would support additional corporate action events, and would provide short Members (i.e. Members that have failed to deliver securities to CNS) with information on their final liability on the same day that liability is applied to their CNS account. The proposed enhancements would also provide NSCC staff with an improved ability to monitor and process voluntary corporate action events. These enhancements are reflected in the proposed rule changes on Exhibit 5 [4] hereto and are described below.

Optional Dividends

When a fail position in CNS is subject to a dividend payment, the issuer will specify the form in which that dividend will be paid (i.e. in securities or cash), called the ''default option''. NSCC long Members (i.e. Members that have failed to receive securities from CNS) may elect a form of payment that differs from the default option by submitting an instruction to NSCC no later than a pre-set date and cut-off time. While these elections are submitted manually today, under the enhancements to the processing of corporate actions, these elections would be submitted to NSCC electronically.

Today, NSCC sets a cut-off time that is based on the cut-off time set by DTC for the submission of these instructions.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] To be CNS-eligible, a security must be eligible for book-entry transfer on the books of The Depository Trust Company (''DTC''), an NSCC affiliate, and must be capable of being processed in the CNS system; for example, securities may be ineligible for CNS processing due to certain transfer restrictions (i.e., 144A securities) or due to the pendency of certain corporate actions.

[4] *See* Exhibit 5 of the Proposed Rule Change Filing, available at *http://www.sec.gov/rules/sro/nscc.shtml* under File No. SR–NSCC–2014–04, Additional Materials.

Going forward, NSCC would set the date and cut-off time that is earlier than the DTC cut-off time, to provide the short Member with additional time to communicate that election to their counterparty.

NSCC's Procedure VII, Section G.4 would be updated as marked in Exhibit 5 hereto to reflect these changes.

Support ''Offer To Consent'' Tender/Exchange Offers

Today, if a fail position in CNS is subject to a tender or exchange offer that includes an ''offer to consent'', in order to participate in that tender or exchange offer the open fail position would be closed and exited out of CNS, and would settle directly between counterparties outside of CNS. The proposed enhancements would permit NSCC Members with fail positions in CNS to participate in tender or exchange offers that include an ''offer to consent'' within CNS.

Under the proposed Rule changes, CNS would support tender/exchange offers that include an ''an offer to consent''. These corporate actions were not previously processed by NSCC in CNS. NSCC's Procedure VII, Section H.4 would be updated as marked in Exhibit 5 hereto to reflect this change.[5]

Protect Submission and Liability Notification

Currently, the cut-off time for a long Member to place a ''protect'' on an open fail position in CNS in order to participate in an upcoming corporate action, or to add shares to a voluntary corporate action, is either on the business day prior to ''protect'' expiration date or, when there is no ''protect'' for that corporate action, on the business day prior to the expiration date of the corporate action. Today, because long Members may incur additional costs for failing to meet these deadlines, NSCC staff today may, in its discretion and on a best efforts basis, may accept and process these instructions either on the ''protect'' expiration or on the expiration date of the corporate action.

Under the proposed enhancements, NSCC Members would submit these instructions to NSCC electronically, and, for a fee of US $500.00, NSCC Members would be permitted to submit instructions to place a ''protect'' on an open fail position in CNS in order to participate in an upcoming corporate action, or to add shares to a voluntary corporate action either on ''protect'' expiration date or, when there is no ''protect'' for that corporate action, on the expiration date of the corporate action.

NSCC's Procedure VII, Section H.4 (b), including the table in that Section, would be updated as marked in Exhibit 5[6] hereto to reflect this change.

Final Liability and Final Protection Notification

Today, CNS will alert a short Member of their final assigned liability with respect to voluntary corporate actions either on the business day after ''protect'' expiration date for that corporate action or, when there is no ''protect'' for that corporate action, on the business day after the expiration date of the corporate action.

Under the proposed Rule changes, CNS would alert the short Member of their assigned final liability no later than the close of business on the same business day the final liability is assigned to that Member by CNS. The proposed Rule change would also make clear that long Members would be notified that their fail positions in CNS would be subject to the protection for that corporate action no later than the close of business on the same business day the final protection is assigned to that Member by CNS.

NSCC's Procedure VII, Section H.4(b), including the table in that Section, would be updated as marked in Exhibit 5[7] hereto to reflect this change.

SMART/Track for CNS Corporate Actions

Under the proposed Rule changes, Members would submit instructions to participate in a voluntary reorganization and would access all corporate action processing output data through SMART/Track for CNS Corporate Actions, which is available within the SMART/Track for Corporate Action Liability Notification Service. The output data, which today is delivered to Members through files and reports, would be visible through on-line screens with search options and filters.

NSCC's Procedure VII, Section H.4 would be updated as marked in Exhibit 5[8] hereto to remove reference to the existing files and reports.

Restriction on Movement of Positions Between CNS Sub-Accounts

Under the proposed enhancements, when a voluntary reorganization is being processed on a security, CNS would no longer permit the movement of positions for that security between non-reorganization sub-accounts (which include, for example, the CNS General Account and the CNS Fully-Paid-For Account) either on the ''protect'' expiration date, or, when there is no ''protect'' for that voluntary reorganization, on the expiration date of the voluntary reorganization.

In order to make this change, NSCC's Procedure VII, Section H.4(b) would be updated as marked in Exhibit 5.[9]

Additional Rule Changes

In addition to the enhancements described above, NSCC is proposing to amend Procedure VII, Section H.4(b) to make clear that the Rules are drafted assuming the processing of subject securities with a protect period of three days, and the table included in that section sets forth the time frames for processing of subject securities with a protect period of two days or less. As such, NSCC would amend Sections G and H of Procedure VII (CNS Accounting Operation), as described above and as reflected in Exhibit 5 hereto.

Implementation Timeframe

Subject to approval of this filing, NSCC proposes to implement the proposed rule changes in multiple phases during 2014. Pending Commission approval, Members will be advised of the implementation dates of the proposed rule changes through issuance of an NSCC Important Notice.

2. Statutory Basis

NSCC believes the proposed rule change is consistent with the requirements of the Securities Exchange Act of 1934 (''Act'') and the rules and regulations thereunder applicable to NSCC, in particular Section 17A(b)(3)(F) of the Act,[10] which requires that NSCC's Rules be designed to promote the prompt and accurate clearance and settlement of securities transactions. By providing for greater efficiency and automation with respect to processing corporate actions applicable to open failed positions within CNS, the proposed rule change promotes the prompt and accurate clearance and settlement of securities transactions.

(B) Clearing Agency's Statement on Burden on Competition

NSCC does not believe that the proposed rule change will have any impact, or impose any burden on competition.

[5] Id.

[6] Id.

[7] Id.

[8] Id.

[9] Id.

[10] 15 U.S.C. 78q–1(b)(3)(F).

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments relating to the proposed rule change have not yet been solicited or received. NSCC will notify the Commission of any written comments received by NSCC.

III. Date of Effectiveness of the Proposed Rule Change, [*sic*] and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove such a proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File No. SR–NSCC–2014–03 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–NSCC–2014–03. 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 filings also will be available for inspection and copying at the principal office of NSCC and on NSCC's Web site at (*http://www.dtcc.com/*).

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–NSCC–2014–03 and should be submitted on or before April 11, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–06187 Filed 3–20–14; 8:45 am]

BILLING CODE 8011–01–P

[11] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13909 and #13910]

South Carolina Disaster #SC–00025

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 South Carolina (FEMA—4166—DR), dated 03/12/2014.

Incident: Severe Winter Storm.

Incident Period: 02/10/2014 through 02/14/2014.

Effective Date: 03/12/2014.

Physical Loan Application Deadline Date: 05/12/2014.

Economic Injury (EIDL) Loan Application Deadline Date: 12/12/2014.

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 03/12/2014, 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:

Aiken, Allendale, Bamberg, Barnwell, Berkeley, Calhoun, Chesterfield, Clarendon, Colleton, Dillon, Dorchester, Edgefield, Florence, Georgetown, Hampton, Horry, Marion, Orangeburg, Saluda, Sumter, Williamsburg.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations With Credit Available Elsewhere	2.625
Non-Profit Organizations Without Credit Available Elsewhere	2.625
For Economic Injury:	
Non-Profit Organizations Without Credit Available Elsewhere	2.625

The number assigned to this disaster for physical damage is 13909B and for economic injury is 13910B.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Joseph P. Loddo,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2014–06211 Filed 3–20–14; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law (Pub. L.) 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, OLCA,
Attn: Reports Clearance Director,
3100 West High Rise,
6401 Security Blvd.,
Baltimore, MD 21235,
Fax: 410–966–2830,
Email address: OR.Reports.Clearance@ssa.gov.

I. The information collections below are pending at SSA. SSA will submit them to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than May 20, 2014. Individuals can obtain copies of the collection instruments by writing to the above email address.

1. Request for Waiver of Overpayment Recovery or Change in Repayment Notice—20 CFR 404.502—404.513, 404.515, and 20 CFR 416.550—416.570, 416.572—0960–0037. When Social Security beneficiaries and Supplemental Security Income (SSI) recipients receive an overpayment, they must return the extra money. These beneficiaries and recipients can use Form SSA–632–BK to take one of three actions: (1) Request an exemption from repaying, as recovery of the payment would cause financial hardship; (2) inform SSA they want to repay the overpayment at a monthly rate over a period longer than 36 months; and (3) request a different rate of recovery. In the latter two cases, the respondents must also provide financial information to help the agency determine how much the overpaid person can afford to repay each month. Respondents are overpaid beneficiaries or SSI recipients who are requesting (1) a waiver of recovery of an overpayment or (2) a lesser rate of withholding.

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)
Waiver of Overpayment (completes entire paper form)	400,000	1	120	800,000
Change in Repayment (completes partial paper form)	100,000	1	45	75,000
Regional Application (New York Debt Management)	44,000	1	120	88,000
Internet Instructions (read only)	500,000	1	5	41,667
Totals	1,044,000			1,004,667

2. Annual Earnings Test Direct Mail Follow-Up Program Notices—20 CFR 404.452–404.455—0960–0369. SSA developed the Annual Earnings Test Direct Mail Follow-up Program to improve beneficiary reporting on work and earnings during the year and earnings information at the end of the year. SSA may reduce benefits payable under the Social Security Act (Act) when an individual has wages or self-employment income exceeding the annual exempt amount. SSA identifies beneficiaries likely to receive more than the annual exempt amount, and requests more frequent estimates of earnings from them. When applicable, SSA also requests a future year estimate to reduce overpayments due to earnings. SSA sends letters (SSA–L9778, SSA–L9779, SSA–L9781, SSA–L9784, SSA–L9785, and SSA–L9790) to beneficiaries requesting earnings information the month prior to their attainment of full retirement age. We send each beneficiary a tailored letter that includes relevant earnings data from SSA records. The Annual Earnings Test Direct Mail Follow-up Program helps to ensure Social Security payments are correct, and enables us to prevent earnings-related overpayments, and avoid erroneous withholding. The respondents are working Social Security beneficiaries with earnings over the exempt amount.

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–L9778	42,630	1	10	7,105
SSA–L9779	158,865	1	10	26,478
SSA–L9781	472,437	1	10	78,740
SSA–L9784	1,270	1	10	212
SSA–L9785	15,870	1	10	2,645
SSA–L9790	45,000	1	10	7,500
Totals	736,072			122,680

3. Questionnaire for Children Claiming SSI Benefits—0960–0499. Section 1631(d)(2) of the Act allows SSA to determine the eligibility of an applicant's claim for SSI payments. Parents or legal guardians seeking to obtain or retain SSI eligibility for their children use Form SSA–3881–BK to provide SSA with the addresses of non-medical sources such as schools, counselors, agencies, organizations, or therapists who have information about a child's functioning. SSA uses this information to help determine a child's claim or continuing eligibility for SSI. The respondents are applicants who appeal SSI childhood disability decisions or recipients undergoing a continuing disability review.

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)
Appeals Cases	65,000	1	30	32,500
Disability Review Cases	45,000	1	30	22,500
Totals	110,000			55,000

4. Social Security Administration Eligible Non-Attorney Representative—20 CFR 404.1717, 404.1745—404.1799, 416.1517, and 416.1545—416.1599—0960–0699. Section 3 of the Social Security Disability Applicants Access to Professional Representation Act (PRA) of 2010, Public Law 111–142, permanently extends the direct payment provision of Section 303 of the Social Security Protection Act (SSPA) of 2004, Public Law 108–203. The PRA permits SSA to extend direct payment of approved fees from claimants' past-due benefits to certain non-attorney representatives. Prior to the enactment of the SSPA and PRA, only attorneys could receive direct payment of SSA-approved fees. Under the PRA, non-attorneys must meet certain prerequisites to be eligible for direct payment of fees. These prerequisites include: (1) A bachelor's degree from an accredited institution of higher education, or four years of relevant professional experience and a high school diploma or General Education Development (GED) certificate; (2) passing a written examination administered by SSA testing the knowledge of relevant provisions of the Act under Titles II and XVI; (3) securing and maintaining continuous professional liability insurance, or equivalent, to protect claimants from malpractice; (4) passing a criminal background check; (5) demonstrating ongoing completion of continuing education courses. The PRA requires SSA to collect the information needed to determine if applicants have satisfied these prerequisites.

SSA uses the information we collect on Form SSA–1691 to determine whether an applicant has fulfilled the statutory prerequisites and regulatory requirements as listed above. To verify this information, we also request the five required items listed above from each new applicant, and we request items #3 and #5 from all non-attorney representatives (new and existing) on a yearly basis. Every year, SSA evaluates the applications, conducts verification investigations, and issues recommendations regarding applicants' eligibility to sit for the examination and eligibility to receive direct payment. The respondents are non-attorneys who want to receive direct payment of their fees for representational services before SSA.

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)
New Respondents—paper SSA–1691	200	1	45	150
New Respondents—Examination	200	1	120	400
New Respondents—Submission of Proof of Bachelor's Degree or Equivalent Qualification	200	1	10	33
New and Existing Respondents—Continuing Education Submission via email, mail, or fax of Training Courses	710	1	20	237
New and Existing Respondents—Proof of Continuous Professional or Business Liability Insurance Coverage (Electronic—scan and email)	672	1	10	112
New and Existing Respondents—Proof of Continuous Professional or Business Liability Insurance Coverage (Paper—copy and mail)	38	1	15	10
New and Existing Respondents—Written Protests	45	1	45	34
Totals	2,065			976

II. SSA submitted the information collections below to OMB for clearance. Your comments regarding the information collections would be most useful if OMB and SSA receive them 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than April 21, 2014. Individuals can obtain copies of the OMB clearance packages by writing to *OR.Reports.Clearance@ssa.gov.*

1. Application for Survivors Benefits—20 CFR 404.611(a) and (c)—0960–0062. Surviving family members of armed services personnel can file for Social Security and veterans' benefits with SSA or at the Veterans Administration (VA). If applicants file for Title II survivor benefits at the VA, they complete Form SSA–24, which is then forwarded to SSA for processing. SSA uses the information to determine eligibility for benefits. The respondents are survivors of deceased armed services personnel who are applying for benefits at the VA.

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–24	3,200	1	15	800

2. RS/DI Quality Review Case Analysis: Sampled Number Holder, Auxiliaries/Survivors, Parents, and Stewardship Annual Earnings Test Workbook—0960–0189. Section 205(a) of the Act authorizes the Commissioner of SSA to conduct the quality review process, which entails collecting information related to the accuracy of payments made under the Old-Age, Survivors, and Disability Insurance Program (OASDI). Sections 228(a)(3), 1614(a)(1)(B), and 1836(2) of the Act require a determination of the citizenship or alien status of the beneficiary; this is only one item that we might question as part of the Annual Quality review. SSA uses Forms SSA–2930, SSA–2931, and SSA–2932 to establish a national payment accuracy rate for all cases in payment status, and to serve as a source of information regarding problem areas in the Retirement Survivors Insurance (RSI) and Disability Insurance (DI) programs. We also use the information to measure the accuracy rate for newly adjudicated RSI or DI cases. SSA uses Form SSA–4659 to evaluate the effectiveness of the annual earnings test and uses the results in developing ongoing improvements in the process. About twenty-five percent of respondents will have in-person reviews and receive one of the following appointment letters: (1) SSA–L8550–U3 (Appointment Letter—Sample Individual); (2) SSA–L8551–U3 (Appointment Letter—Sample Family); or (3) the SSA–L8552–U3 (Appointment Letter—Rep Payee). Seventy-five percent of respondents will receive a notice for a telephone review using the SSA–L8553–U3 (Beneficiary Telephone Contact) or the SSA–L8554–U3 (Rep Payee Telephone Contact). To help the beneficiary prepare for the interview, we include three forms with each notice: (1) SSA–85 (Information Needed to Review Your Social Security Claim) lists the information the beneficiary will need to gather for the interview; (2) SSA–2935 (Authorization to the Social Security Administration to Obtain Personal Information) verifies the beneficiary's correct payment amount, if necessary; and (3) SSA–8552 (Interview Confirmation) confirms or reschedules the interview if necessary. The respondents are a statistically valid sample of all OASDI beneficiaries in current pay status or their representative payees.

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–2930	1,500	1	30	750
SSA–2931	850	1	30	425
SSA–4659	325	1	10	54
SSA–L8550–U3	385	1	5	32
SSA–L8551–U3	95	1	5	8
SSA–L8552–U3	35	1	5	3
SSA–L8553–U3	4,490	1	5	374
SSA–L8554–U3	670	1	5	56
SSA–8552	2,350	1	5	196
SSA–85	3,850	1	5	321
SSA–2935	2,350	1	5	196
SSA–820/821 (also saved under OMB Numbers 0960-0598 & 0960–0059	400	1	15	100
SSA–8510 (also saved under OMB No. 0960-0707	800	1	5	67
Totals	18,100			2,582

3. Appeal of Determination for Help with Medicare Prescription Drug Plan Costs—0960–0695. Pub.L. 108–173, the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA), established the Medicare Part D program for voluntary prescription drug coverage for certain low-income individuals. The MMA stipulates the provision of subsidies for individuals who are eligible for the program and who meet eligibility criteria for help with premium, deductible, and/or co-payment costs. SSA uses Form SSA–1021, Appeal of Determination for Help with Medicare Prescription Drug Plan Costs, to obtain information from individuals who appeal SSA's decisions regarding eligibility or continuing eligibility for a Medicare Part D subsidy. The respondents are applicants who are appealing SSA's eligibility or continuing eligibility decisions.

Type of Request: Revision of an OMB-approved information collection.

Modality of collection	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–1021				
(Paper form)	2,330	1	10	388
SSA–1021 (Internet-Medicare Application Processing System)	14,008	1	10	2,335
Totals	16,338			2,773

4. Sheltered Workshop Wage Reporting—0960–0771. Sheltered workshops are non-profit organizations or institutions that implement a recognized program of rehabilitation for handicapped workers, or provide such workers with remunerative employment or other occupational rehabilitating activity of an educational or therapeutic nature. Sheltered workshops perform a service for their clients by reporting monthly wages directly to SSA. SSA

uses the information these workshops provide to verify and post monthly wages to the SSI recipient's record. Most workshops report monthly wage totals to their local SSA office so we can adjust the client's SSI payment amount in a timely manner and prevent overpayments. Sheltered workshops are motivated to report wages voluntarily as a service to their clients. Respondents are sheltered workshops that report monthly wages for services performed in the workshop.

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)
Sheltered Workshop Wage Reporting	800	12	9,600	15	2,400

Dated: March 18, 2014.

Faye Lipsky,

Reports Clearance Director, Social Security Administration.

[FR Doc. 2014–06148 Filed 3–20–14; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 8662]

Culturally Significant Objects Imported for Exhibition Determinations: ''Preview of the Twelve Caesars Tazze''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition ''Preview of the Twelve Caesars Tazze,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Metropolitan Museum of Art, New York, New York, from on or about April 1, 2014, until on or about June 30, 2014, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6469). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: March 13, 2014.

Kelly Keiderling,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2014–06206 Filed 3–20–14; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 8665]

Culturally Significant Objects Imported for Exhibition Determinations: ''Andrew Wyeth: Looking Out, Looking In''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition ''Andrew Wyeth: Looking Out, Looking In,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit objects at the National Gallery of Art, Washington, DC, from on or about May 4, 2014, until on or about November 30, 2014, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the imported objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6469). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: March 13, 2014.

Kelly Keiderling,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2014–06203 Filed 3–20–14; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 8664]

Culturally Significant Objects Imported for Exhibition Determinations: ''Degas/Cassatt''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition ''Degas/Cassatt,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit objects at the National Gallery of Art, Washington, DC, from on or about May 11, 2014, until on or about October 5, 2014, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the imported objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6469). The

mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: March 13, 2014.

Kelly Keiderling,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2014–06204 Filed 3–20–14; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 8663]

Culturally Significant Objects Imported for Exhibition Determinations: ''Boichot Vases''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition ''Boichot Vases,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit objects at The Frick Collection, New York, New York, from on or about April 21, 2014, until on or about April 21, 2016, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the imported objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6469). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: March 13, 2014.

Kelly Keiderling,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2014–06205 Filed 3–20–14; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending March 1, 2014

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 et. seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: DOT–OST–2014–0026

Date Filed: February 24, 2014

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: March 17, 2014

Description: Application of Blue Jet SP. z o.o. (''Blue Jet'') requesting a foreign air carrier permit to the full extent authorized by the Air Transport Agreement Between the United States and the European Community and the Member States of the European Community to enable it to engage in: (i) foreign charter air transportation of persons and property from any point or points behind any Member State of the European Union via any point or points in any Member State and via intermediate points to any point or points in the United States and beyond; (ii) foreign charter air transportation of persons and property between any point or points in the United States and any point or points in any member of the European Common Aviation Area; (iii) other charters pursuant to the prior approval requirements; and (iv) transportation authorized by any additional route rights made available to European Community carriers in the future. Blue Jet further requests exemption authority to the extent necessary to enable it to provide the services described above pending issuance of a foreign air carrier permit and such additional or other relief as the Department may deem necessary or appropriate.

Barbara J. Hairston,

Supervisory Dockets Officer, Docket Operations, Federal Register Liaison.

[FR Doc. 2014–06161 Filed 3–20–14; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2013–0304]

Agency Information Collection Activities; Reinstatement of an Information Collection Request: Motor Carrier Safety Grants Programs (Formerly Motor Carrier Safety Assistance Programs (MCSAP))

AGENCY: FMCSA, DOT.

ACTION: Notice; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Federal Motor Carrier Safety Administration (FMCSA) announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for its review and approval and invites public comment. The FMCSA requests approval to reinstate an ICR titled, ''Motor Carrier Safety Grants Programs,'' (formerly Motor Carrier Safety Assistance Program (MCSAP)). The information required consists of grant application preparation, quarterly reports and electronic data documenting the results of driver/vehicle inspections performed by the States. The FMCSA previously requested and received OMB approval to use the existing Forms in this ICR to also collect the same information required by its MCSAP grants: MCSAP Basis/Incentive (MCG), Border Enforcement Grant (BEG), New Entrant (MNE) Grant, and High Priority (MHP) Grant, the Commercial Driver's License Program Implementation (CDLPI) Grant, Commercial Driver License Information System (CDLIS) Grant, and Performance and Registration Information System Management (PRISM) Grant programs are covered by this ICR. The FMCSA now requests to include the following grant programs in this information collection: Commercial Vehicle Information Systems and Networks (CVISN), Commercial Motor Vehicle Operator Safety Training Grant (CMVOST), and Safety Data Improvement Program (SaDIP). In addition, the name of this ICR is being changed to: ''Motor Carrier Safety

Grants Programs,'' to more accurately describe the purpose of this ICR.

DATES: We must receive your comments on or before May 20, 2014.

ADDRESSES: You may submit comments identified by Federal Docket Management System (FDMS) Docket Number FMCSA–2013–0304 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington DC, 20590–0001 between 9:00 a.m. and 5:00 p.m., e.t., Monday through Friday, except Federal Holidays.

Instructions: All submissions must include the Agency name and docket number. For detailed instructions on submitting comments and additional information on the exemption process, see the Public Participation heading below. 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.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov,* and follow the online instructions for accessing the dockets, or go to the street address listed above.

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 for the Federal Docket Management System published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit *http://edocket.access.gpo.gov/2008/pdfE8–794.pdf.*

Public Participation: The Federal eRulemaking Portal is available 24 hours each day, 365 days each year. You can obtain electronic submission and retrieval help and guidelines under the ''help'' section of the Federal eRulemaking Portal Web site. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard, or print the acknowledgement page that appears after submitting comments online. Comments received after the comment closing date will be included in the docket and will be considered to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Julie Otto, Grants Management Office, Office of the Chief Financial Officer, U.S. Department of Transportation, FMCSA, West Building 6th Floor, 1200 New Jersey Avenue SE., Washington DC 20590. Telephone: 202–366–0710; email: j*ulie.otto@dot.gov.*

SUPPLEMENTARY INFORMATION:

Background: Information collected from the following FMCSA grant programs provides program and financial data supporting numerous efforts targeting FMCSA's primary mission to reduce crashes, injuries, and fatalities involving commercial vehicles:

MCSAP Basic/Incentive (MCG) Grant Program: The MCSAP grant program is authorized by Sections 401 through 404 of the Surface Transportation Assistance Act of 1982 (STAA) (Pub. L. 97–424) which established a program of financial assistance to the States to implement programs to enforce: (a) Federal rules, regulations, standards, and orders applicable to commercial motor vehicle (CMV) safety; and (b) compatible State rules, regulations, standards and orders. This grant-in-aid program is known as the MCSAP Basic and Incentive grant program. Section 402(c) of the STAA requires that the Secretary of Transportation (Secretary), on the basis of reports submitted by the States and the Secretary's own inspections, make a continuing evaluation of the manner in which each State is carrying out its approved safety enforcement plan.

The Transportation Equity Act for the 21st Century (TEA–21), Public Law 105–178, 112 Stat. 107 (June 9, 1998) further revised MCSAP to broaden its purpose beyond enforcement activities and programs by requiring participating States to assume greater responsibility for improving motor carrier safety. TEA–21 required States to develop performance-based plans reflecting national priorities and performance goals, revised the MCSAP funding distribution formula, and created a new incentive funding program. As a result, States are given greater flexibility in designing programs to address national and State goals of reducing the number and severity of CMV crashes.

Section 4106 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU), Public Law 109–59, 119 Stat.1144 (August 10, 2005) amended 49 U.S.C. 31102(b)(1) to modify and augment the conditions a State must meet to qualify for basic program funds under the MCSAP. The statute requires a State to document in the State Commercial Vehicle Safety Plan (CVSP) its commitment to meet the following additional conditions:

- Deploy technology to enhance the efficiency and effectiveness of CMV safety programs;
- Include, in both the training manual for the licensing examination to drive, a non-CMV and the training manual for the licensing examination to drive a CMV, information on best practices for driving safely in the vicinity of noncommercial motor vehicles (non-CMVs) and CMVs;
- Conduct comprehensive and highly visible traffic enforcement and CMV safety inspection programs in high-risk locations and corridors; and
- Except in the case of an imminent or obvious safety hazard, ensure that an inspection of a vehicle transporting passengers for a motor carrier of passengers is conducted at a station, terminal, border crossing, maintenance facility, destination, or other location where a motor carrier may make a planned stop.

Additionally, section 4106 of SAFETEA–LU amended 49 U.S.C. 31102(c) to provide that a State may use a portion of MCSAP grant funds to conduct documented enforcement of State traffic laws—both laws and regulations designed to promote the safe operation of CMVs and laws and regulations relating to non-CMVs, when necessary to promote the safe operation of CMVs. Previously, non-CMV traffic enforcement was not an eligible MCSAP activity for reimbursement so the States did not capture activity levels for this type of enforcement. The number of non-CMV enforcement activities conducted by the States has been relatively minimal since SAFETEA–LU limits the amount of MCSAP grant funding that can be used for non-CMV traffic enforcement activities to no more than five percent of the basic grant amount the State receives annually. The Moving Ahead for Progress in the 21st Century Act (MAP–21) Public Law 112–141, 126 Stat. 405, 805–808 (July 6, 2012), did not make any further modifications to the traffic enforcement activities previously authorized under SAFETEA–LU.

Section 32601 of MAP–21, amended 49 U.S.C. 31102(b) to modify and augment the conditions a State must meet to qualify for basic program funds under the MCSAP. The statute requires a State to document in its CVSP the

commitment to meet the following additional conditions:

• Ensure that the State will transmit to its roadside inspectors the notice of each Federal exemption granted pursuant to section 31315(b) and provided to the State by the Secretary, including the name of the person granted the exemption and any terms and conditions that apply to the exemption;

• The plan submitted by the State shall provide that the total expenditure of amounts of the lead State agency responsible for implementing the plan will be maintained at a level at least equal to the average level of that expenditure for fiscal years 2004 and 2005.

This information collection supports the DOT Strategic Goal of Safety (i.e., reducing CMV-related fatalities and injuries) by providing data to support State CMV enforcement efforts.

In order for FMCSA to evaluate program effectiveness, it is necessary for the State to provide and maintain information concerning past, present and future program activity. The final rule that revised part 350 to implement the changes to the MCSAP made by SAFETEA–LU was published in the **Federal Register** on July 5, 2007 (72 FR 36769). Each State's CVSP must contain the information required by 49 CFR 350.201, 350.211 and 350.213. This information is necessary to enable the FMCSA to determine whether a State meets the statutory and administrative criteria to be eligible for a grant. It is necessary that a State's work activities and accomplishments be reported so that FMCSA can monitor and evaluate a State's progress under its approved plan and make the determinations and decisions required by 49 CFR 350.205 and 350.207.

The FMCSA uses the information in the CVSP to determine whether a State has the necessary resources and authority to undertake the program intended by Congress. After a grant has been awarded to a State, a continuing evaluation of the State's activities is performed to determine whether continued funding is appropriate and if revisions in the State's CVSP should be made. Quarterly reports are submitted by the States using Standard Forms Federal Financial Report (SF–FFR) and Performance Progress Report (SF–PPR) which includes an addendum to provide the minimum necessary information to assist in appropriate monitoring of a State's performance, compared to its CVSP, and to permit FMCSA to determine whether the effort of a State is cost efficient and whether Federal assistance should be continued. In addition, inspection data, non-inspection traffic enforcement data, crash reports, and other reports are submitted electronically by the State agency to FMCSA.

MCSAP High Priority (MHP) Grant Program: The MCSAP HP grant program is authorized by SAFETEA–LU, Public Law 109–59, § 4107(a), 119 Stat. 1144, 1719–20 (2005), as amended by SAFETEA–LU Technical Corrections Act of 2008, Public Law 110–244, § 4301(a), § 4107, 122 Stat. 1572, 1616 (2008), as amended by MAP–21, Public Law 112–141, §§ 32603(a), 32603(d), 126 Stat. 405, 807, 808 (2012).

The FMCSA may award these grants to States, local governments, and other organizations that use or train qualified officers and employees in coordination with State safety agencies in accordance with the provisions of 49 CFR 350.201, 350.309, and 350.319. Recipients may use these funds for MCSAP-eligible expenses, including personnel, equipment, training, travel, information technology solutions, indirect costs, and administrative expenses. The FMCSA may reimburse 100 percent of approved eligible costs for public education and outreach activities and 80 percent for all other activities under a High Priority grant award.

MCSAP New Entrant Safety Assurance (MNE) Grant Program: The MCSAP NE grant program is authorized by SAFETEA–LU, Public Law 109–59, § 4107(b), 119 Stat. 1144, 1720 (2005), amended by SAFETEA–LU Technical Corrections Act of 2008, Public Law 110–244, § 301(b), 122 Stat. 1572, 1616 (2008), as amended by MAP–21, Public Law 112–141, § 32603(e), 126 Stat. 405, 807, 808 (2012). This section also establishes new timeframes for the completion of New Entrant Safety Audits.

State agencies use NE grant funds for MCSAP-eligible expenses, including salaries and related expenses of employees performing interstate NE safety audits, training, and performing other eligible activities that are directly related to conducting safety audits. The FMCSA may reimburse up to 100 percent of eligible costs in an approved budget and project plan.

MCSAP Border Enforcement (BEG) Grant Program: The BEG program is authorized by SAFETEA–LU, Public Law 109–59, §§ 4101(c)(2), 4110 (2005), as amended by MAP–21, Public Law 112–141, §§ 32603(c) & (h) (2012). Section 32603(h) removed 49 U.S.C. 31107(b) which required that States agree that the total expenditure of amounts of the State and political subdivisions of the State, exclusive of amounts from the United States, for carrying out border CMV safety programs and related enforcement activities will be maintained at least equal to the average level of that expenditure for the last 2 fiscal years of the State or Federal Government ending before October 1, 2005, as designated by the State. The authorizing statute also provides that the Secretary shall reimburse a State under a grant agreement pursuant to this section in an amount not more than 100 percent of the costs incurred by the State in a fiscal year for carrying out border CMV safety programs and related enforcement activities and projects.

Commercial Driver's License Program Implementation (CDLPI) Grant Program: The CDLPI grant program authorized by Section 32604 of MAP–21, amended 49 U.S.C. 31313(a), provides general authority to the Secretary to make a grant to a State for its Commercial Driver's License Program Implementation (CDLPI) in a fiscal year. This enables the State to comply with program requirements and to improve CDLPI. A grant may be made to a State to:

• Comply with the requirements of 49 U.S.C. 31311;

• In the case of a State that is making a good faith effort toward substantial compliance with the program requirements and section 31311, to improve its implementation of its CDL program, including expenses for computer hardware and software; publications, testing, personnel, training, and quality control; for CDL program coordinators; to implement or maintain a system to notify an employer of an operator of a CMV of the suspension or revocation of the operator's CDL consistent with standards developed under section 32303(b) of the Commercial Motor Vehicle Safety Enhancement Act of 2012.

Commercial Driver License Information System (CDLIS) Modernization Grant Program: The CDLIS Modernization grant program is authorized by Section 4123 of SAFETEA–LU, which amended title 49 U.S.C., 31309 to provide general authority to the Secretary to make a grant to a State in a fiscal year to modernize the CDLIS components of the State licensing system. MAP–21 did not reauthorize new funding for this grant program but past grants awarded to States remain open and previously awarded funds may continue to be used toward CDLIS modernization efforts in States that received these grants.

Performance and Registration Information System Management (PRISM) Grant Program: The PRISM

grant program is authorized by TEA–21 which directed the FMCSA to implement, on a national basis, a program that links the Motor Carrier Safety Information System of the Department of Transportation and similar State systems with State CMV registration and licensing systems. The purpose of PRISM is to: (1) Determine the safety fitness of the motor carrier prior to issuing license plates; and (2) cause the carrier to enhance its safety performance through an improvement process, and where necessary, apply sanctions to include denial, suspension, and/or revocation of CMV registrations. The Act also provides that the Secretary shall reimburse a State under a grant agreement in an amount not more than 100 percent of the costs incurred by the State implementing and complying with the program.

Section 32602 of MAP–21 amended 49 U.S.C. 31106(b)(3)(c) as follows:

- Establish and implement a process to:
  - Cancel the CMV registration and seize the registration plates of a CMV when an employer is found liable under section 31310(i)(2)(C) for knowingly allowing or requiring an employee to operate such a CMV in violation of an out-of-service order; and
  - Reinstate the vehicle registration or return the registration plates of the CMV, subject to sanctions under clause (i), if the Secretary permits such carrier to resume operations after the date of issuance of such order.

The FMCSA previously requested and received OMB approval to use the existing Forms in this ICR to also collect the same information required by the FMCSA programs described above and now requests to include the following grant programs in this information collection: Commercial Vehicle Information Systems and Networks (CVISN), Safety Data Improvement Program (SaDIP), and Commercial Vehicle Operator Safety Training Grant (CMVOST).

CVISN Grant Program: The CVISN grant program is authorized by SAFETEA–LU Public Law 109–59, §§ 4101(c)(4), 4126, 119 Stat. 1144, 1715, 1738–41 (2005), as amended by MAP–21, Public Law 112–141, §§ 32603(c) and 32605 (2012). The CVISN program is also governed by 49 U.S.C. 31106, as amended. The FMCSA provides CVISN funds to advance technological capability and promote the deployment of intelligent transportation systems applications for commercial vehicle operations, including commercial vehicle, commercial driver, and carrier-specific information systems and networks. Eligible awardees for CVISN funding are State agencies, including the District of Columbia and U.S. territories that are designated as the lead agency in the State's CVISN Program Plan and Top-Level Design (PP/TLD).

CMVOST Grant Program: The CMVOST grant program is authorized by SAFETEA–LU, Public Law 109–59, § 4134, 119 Stat. 1144, 1744–45 (2005), as amended by MAP–21, Public Law 112–141, § 112002(b) (2012). The FMCSA may award grants to expand the number of Commercial Driver's License holders possessing operator safety training in order to reduce the severity and number of crashes on U.S. roads involving CMVs.

The FMCSA may award CMVOST grant funds to State, local, and Federally-recognized Native American Tribal governments, accredited post-secondary educational institutions (public or private) and truck driver training schools that are accredited and recognized by the U.S. Department of Education. The FMCSA will reimburse up to 80 percent of approved eligible costs in an approved budget and project plan. The required 20 percent matching funds can be either cash or in-kind contributions.

Safety Data Improvement (SaDIP) Grant Program: The SaDIP grant program is authorized by SAFETEA–LU, Public Law 109–59, §§ 4101(c)(5), 4128, 119 Stat. 1144, 1715, 1742 (2005), as amended by MAP–21, Public Law 112–141, § 32603(c), 126 Stat. 405, 808 (2012). The FMCSA may award grants to improve the overall quality of CMV data, and specifically, to improve the timeliness, efficiency, accuracy, and completeness of State processes and systems used to collect, analyze, and report large truck and bus crash and inspection data.

The FMCSA may award these grants to State agencies including the District of Columbia, the Territories of American Samoa, Guam, the U.S. Virgin Islands, Commonwealth of Puerto Rico, and the Commonwealth of the Northern Mariana Islands. In accordance with the provisions of Section 4128 of SAFETEA–LU, a State shall be eligible for a grant under this section in a fiscal year if the Secretary determines that the State has (1) conducted a comprehensive audit of its CMV safety data system within the preceding 2 years; (2) developed a plan that identifies and prioritizes its CMV safety data need and goals; and (3) identified performance-based measures to determine progress toward those goals. The FMCSA may reimburse up to 80 percent of approved eligible costs in an approved budget and project plan.

Justification for Request

The FMCSA previously requested and received OMB approval to use the existing Forms MCSAP–2 and MCSAP–2A in the current ICR to also collect the same information required by MCSAP Basic and Incentive, NE, HP, BEG, CDL, CDLIS, and the PRISM grant programs. The FMCSA now requests to include the CVISN, CMVOST, and SaDIP grant programs in this information collection. The new form name for use in all FMCSA grants programs will be MCSA–3.

The MCSAP Basic and Incentive, HP, NE, BEG, CDL, CVISN, CMVOST, PRISM and SaDIP grant programs utilized the Form MCSAP–2A for the same purposes as the MCSAP grant program for grants issued prior to fiscal year (FY) 2011. Following FMCSA's implementation of GrantSolutions (GS) in FY 2011, a single uniform grant agreement, the FMCSA Grant Agreement, was used for notification of grant awards.

The FMCSA uses the information in the CVSP/Project Narratives, and Standard Forms Reports to determine whether a State has the necessary resources and authority to undertake the program intended by Congress. Additionally, after a grant has been awarded to a State, continuing evaluations are performed using SF–PPRs and SF–FFRs to measure individual and collective program accomplishments and determine whether continued funding is appropriate and whether revisions are necessary. In the event of nonconformity with any approved plan and failure on the part of a State to remedy deficiencies, FMCSA is required to take action to cease Federal participation.

Automated Information Collection

In 2010, FMCSA began the implementation of a new electronic grants management system called GS for submitting grants-related documentation such as applications, Standard Forms, and Quarterly reports. GS is a comprehensive grants management system provided by the Grants Center of Excellence (COE). The COE is managed by the Administration for Children and Families (ACF) within the Department of Health and Human Services in partnership with over 17 Federal agencies. The system is available to all Federal grant-awarding agencies as part of the Grants Management Line of Business initiative. It services all types of grants (service, training, demonstration, social research, and cooperative agreements) across all

grant categories (discretionary, formula, block, and entitlement). The FMCSA began utilizing GS for all of its grant programs in fiscal year FY 2011 and has awarded grants through the system since that time. All applicants who apply for FMCSA grants must submit their applications electronically through Grants.gov which are then transmitted to GS. All FMCSA grant awards made prior to FY 2011 were completed using a legacy paper-based process.

Title: Motor Carrier Safety Grants Programs (formerly Motor Carrier Safety Assistance Program (MCSAP)).

OMB Control Number: 2126–0010.

Type of Request: Reinstatement of an information collection request.

Respondents: FMCSA Grant Recipients.

Estimated Number of Respondents: 4,436.

Estimated Time per Response: Grant application preparation: 80 hours each; quarterly report preparation: 8 hours each; and inspection and data upload: 1 minute each.

Expiration Date: February 28, 2014.

Frequency of Response: Grant application: 1 annually; quarterly reports: 8 annually; and inspection and data upload: about 3.4 million annually.

Estimated Total Annual Burden: 15,804 hours. The methods used to calculate the hours necessary to prepare grant applications, upload data, and prepare quarterly reports are based on interviews with the State and Federal personnel charged with those responsibilities. The information required to prepare the applications for grants and the subsequent reports is based on general information ordinarily maintained by the States in the general course of business, and only simple computations are required to determine burden hours. The grant applications and reports are submitted by the 50 States, four Territories, Puerto Rico, and the District of Columbia. Each entity submits one grant request per year and four quarterly reports. About 3.4 million inspection reports are uploaded each year.

The figures reflect only 20 percent of the total estimated hours to perform the activities, since MCSAP reimburses 80 percent of the eligible costs incurred in the administration of an approved plan as set forth in 49 CFR 350.303, 350.309 and 350.311. Labor hours are estimated and an average hourly rate for professional personnel is applied. The four territories of American Samoa, Guam, U.S. Virgin Islands and the Commonwealth of the Northern Mariana Islands are funded at 100 percent; therefore they are not included in the computation of burden.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the performance of FMCSA's functions; (2) the accuracy of the estimated burden; (3) ways for the FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize or include your comments in the request for OMB's clearance of this information collection.

Issued under the authority delegated in 49 CFR 1.87 on: March 7, 2014.

G. Kelly Leone,

Associate Administrator, Office of Research and Information Technology and Chief Information Officer.

[FR Doc. 2014–06166 Filed 3–20–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2013- 0443]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

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

ACTION: Notice of applications for exemption, request for comments.

SUMMARY: FMCSA announces receipt of applications from 13 individuals for an exemption from the prohibition against persons with a clinical diagnosis of epilepsy or any other condition which is likely to cause a loss of consciousness or any loss of ability to operate a commercial motor vehicle (CMV) from operating CMVs in interstate commerce. The regulation and the associated advisory criteria published in the Code of Federal Regulations as the ''Instructions for Performing and Recording Physical Examinations'' have resulted in numerous drivers being prohibited from operating CMVs in interstate commerce based on the fact that they have had one or more seizures and are taking anti-seizure medication, rather than an individual analysis of their circumstances by a qualified medical examiner. If granted, the exemptions would enable these individuals who have had one or more seizures and are taking anti-seizure medication to operate CMVs for 2 years in interstate commerce.

DATES: Comments must be received on or before April 21, 2014.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA–2013–0443 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Each submission must include the Agency name and the docket ID for this Notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on January 17, 2008 (73 FR 3316; January 17, 2008). This information is also available at *http://Docketinfo.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Elaine Papp, Chief, Medical Programs Division, (202) 366–4001, or via email at *fmcsamedical@dot.gov*, or by letter FMCSA, Room W64–113, 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:

Background

Under 49 U.S.C. 31315 and 31136(e), FMCSA may grant an exemption for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statutes also allow the Agency to renew exemptions at the end of the 2-year period. The 13 individuals listed in this notice have recently requested an exemption from the epilepsy prohibition in 49 CFR 391.41(b)(8), which applies to drivers who operate CMVs as defined in 49 CFR 390.5, in interstate commerce. Section 391.41(b)(8) states that a person is physically qualified to drive a commercial motor vehicle if that person has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a CMV.

FMCSA provides medical advisory criteria for use by medical examiners in determining whether drivers with certain medical conditions should be certified to operate CMVs in intrastate commerce. The advisory criteria indicate that if an individual has had a sudden episode of a non-epileptic seizure or loss of consciousness of unknown cause which did not require anti-seizure medication, the decision whether that person's condition is likely to cause the loss of consciousness or loss of ability to control a CMV should be made on an individual basis by the medical examiner in consultation with the treating physician. Before certification is considered, it is suggested that a 6-month waiting period elapse from the time of the episode. Following the waiting period, it is suggested that the individual have a complete neurological examination. If the results of the examination are negative and anti-seizure medication is not required, then the driver may be qualified.

In those individual cases where a driver had a seizure or an episode of loss of consciousness that resulted from a known medical condition (e.g., drug reaction, high temperature, acute infectious disease, dehydration, or acute metabolic disturbance), certification should be deferred until the driver has fully recovered from that condition, has no existing residual complications, and is not taking anti-seizure medication. Drivers who have a history of epilepsy/seizures, off anti-seizure medication and seizure-free for 10 years, may be qualified to operate a CMV in interstate commerce. Interstate drivers with a history of a single unprovoked seizure may be qualified to drive a CMV in interstate commerce if seizure-free and off anti-seizure medication for a 5-year period or more.

Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission. To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number ''FMCSA–2013–0443'' and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number ''FMCSA–2013–0443'' and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to the proposed rulemaking.

Summary of Applications

Thomas Bynum

Mr. Bynum is a 61 year-old class A CDL holder in North Carolina. He does not have a history of seizure. He takes anti-seizure medication since his surgery 35 years ago with the dosage and frequency remaining the same since that time. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Bynum receiving an exemption.

Brian Conaway

Mr. Conaway is a 42 year-old class B CDL holder in Ohio. He has a history of seizures and has remained seizure free and off anti-seizure medication since his surgery 1999. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Conaway receiving an exemption.

Joan Diaz

Ms. Diaz is a 49 year-old class B CDL holder in Maryland. She has a history of seizure disorder and has remained seizure free for 32 years. She takes anti-seizure medication with the dosage and frequency remaining the same for over 3 years. If granted the exemption, she would like to drive a school bus. Her physician states that he is supportive of Ms. Diaz receiving an exemption.

Christopher Fitch

Mr. Fitch is a 51 year-old class B CDL holder in New York. He has a history of seizures and his last seizure was one year ago while in the hospital. He takes anti-seizure medication with the dosage and frequency remaining the same for over 2 years. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Fitch receiving an exemption.

Ronald Hartl

Mr. Hartl is a 55 year old driver in Wisconsin. He has a history of epilepsy and has remained seizure free for 35 years. He takes anti-seizure medication with the dosage and frequency remaining the same for over 10 years. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Hartl receiving an exemption.

Donald Hernandez

Mr. Hernandez is a 40 year-old driver in California. He has a history of seizure disorder and has remained seizure free for 14 years. He takes anti-seizure medication with the dosage and frequency remaining the same for over 2 years. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Hernandez receiving an exemption.

Craig Hoisington

Mr. Hoisington is a 41 year-old driver in New Hampshire. He has a history of epilepsy and has remained seizure free for 10 years. He takes anti-seizure medication with the dosage and frequency remaining the same for over

2 years. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Hoisington receiving an exemption.

Earnest Lansberry

Mr. Lansberry is a 62 year-old driver in Pennsylvania. He has a history of seizure disorder and has remained seizure free for 7 years. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Lansberry receiving an exemption.

Michael Miller

Mr. Miller is a 56 year-old driver in Wisconsin. He has a history of epilepsy and has remained seizure free seizure for 11 years. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Miller receiving an exemption.

Scott Smith

Mr. Smith is a 39 year-old driver in California. He has a history of seizure and has remained seizure free for 12 years. He discontinued his anti-seizure medication 18 months ago. If granted the exemption, he would like to drive a CMV. His physician is supportive of Mr. Smith receiving an exemption.

Peter Thompson

Mr. Thompson is a 21 year-old driver in Florida. He has a history of seizures and has remained seizure free for over 10 years. He discontinued his anti-seizure medication 8 years ago. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Thompson receiving an exemption.

Nathaniel Ware

Mr. Ware is a 33 year-old driver in Alabama. He has a history of seizures and has remained seizure free for 4 years. He takes anti-seizure medication with the dosage and frequency remaining the same for 2 years. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Ware receiving an exemption.

Jason Yowell

Mr. Yowell is a 42 year-old driver in Virginia. He has a history of seizures and has remained seizure free for 4 years. He discontinued his anti-seizure medication 10 months ago. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Yowell receiving an exemption.

Request for Comments

In accordance with 49 U.S.C. 31315 and 31136(e), FMCSA requests public comment from all interested persons on the exemption applications described in this notice. We will consider all comments received before the close of business on the closing date indicated earlier in the notice.

Issued on: March 7, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–06160 Filed 3–20–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2011–0378]

Qualification of Drivers; Exemption Applications; Vision

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

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 8 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective April 17, 2014. Comments must be received on or before April 21, 2014.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. [Docket No. FMCSA–2011–0378], using any of the following methods:

- Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- Mail: Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- Hand Delivery or Courier: West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- Fax: 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved

absent such exemption.'' The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

Exemption Decision

This notice addresses 8 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 8 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Robert J. Abbas (MN)
Paul T. Browning (MT)
Robert P. Clark (NY)
Kevin J. Larson (ID)
Gilbert M. Rosas (AZ)
Kim A. Shaffer (PA)
Larry W. Slinker (VA)
Lonnie J. Supanchick (NV)

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 8 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (77 FR 19749; 77 FR 22838). Each of these 8 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the requirement specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption requirements.

These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

Request for Comments

FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31136(e) and 31315. However, FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by April 21, 2014.

FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31136(e) and 31315 can be satisfied by initially granting the renewal and then requesting and evaluating, if needed, subsequent comments submitted by interested parties. As indicated above, the Agency previously published notices of final disposition announcing its decision to exempt these 8 individuals from the vision requirement in 49 CFR 391.41(b)(10). The final decision to grant an exemption to each of these individuals was made on the merits of each case and made only after careful consideration of the comments received to its notices of applications. The notices of applications stated in detail the qualifications, experience, and medical condition of each applicant for an exemption from the vision requirements. That information is available by consulting the above cited **Federal Register** publications.

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket numbers FMCSA–2011–0378 and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period and may change this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2011–0378 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to the proposed rulemaking.

Issued on: March 7, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–06167 Filed 3–20–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2014–0011–N–6]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and its implementing regulations, the Federal Railroad Administration (FRA) hereby announces that it is seeking renewal of the following currently approved information collection activities. Before submitting the information collection request (ICR) below for clearance by the Office of Management and Budget (OMB), FRA is soliciting public comment on specific aspects of the activities identified below.

DATES: Comments must be received no later than May 20, 2014.

ADDRESSES: Submit written comments on any or all of the following proposed activities by mail to either: Mr. Robert Brogan, Office of Safety, Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1200 New Jersey Ave. SE., Mail Stop 25, Washington, DC 20590, or Ms. Kimberly Toone, Office of Information Technology, RAD–20, Federal Railroad Administration, 1200 New Jersey Ave. SE., Mail Stop 35, Washington, DC 20590. Commenters requesting FRA to acknowledge receipt of their respective comments must include a self-addressed stamped postcard stating, ''Comments on OMB control number 2130–0005.'' Alternatively, comments may be transmitted via facsimile to (202) 493–6216 or (202) 493–6479, or via email to Mr. Brogan at *Robert.Brogan@dot.gov*, or to Ms. Toone at *Kimberly.Toone@dot.gov*. Please refer to the assigned OMB control number in any correspondence submitted. FRA will summarize comments received in response to this notice in a subsequent notice and include them in its information collection submission to OMB for approval.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Office of Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1200 New Jersey Ave. SE., Mail Stop 17, Washington, DC 20590 (telephone: (202) 493–6292) or Ms. Kimberly Toone, Office of Information Technology, RAD–20, Federal Railroad Administration, 1200 New Jersey Ave. SE., Mail Stop 35, Washington, DC 20590 (telephone: (202) 493–6132). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, sec. 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR part 1320, require Federal agencies to provide 60-days notice to the public for comment on information collection activities before seeking approval for reinstatement or renewal by OMB. 44 U.S.C. 3506(c)(2)(A); 5 CFR 1320.8(d)(1), 1320.10(e)(1), 1320.12(a). Specifically, FRA invites interested respondents to comment on the following summary of proposed information collection activities regarding (i) whether the information collection activities are necessary for FRA to properly execute its functions, including whether the activities will have practical utility; (ii) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (iii) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (iv) ways for FRA to minimize the burden of information collection activities on the public by automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (*e.g.,* permitting electronic submission of responses). *See* 44 U.S.C. 3506(c)(2)(A)(i)–(iv); 5 CFR 1320.8(d)(1)(i)–(iv). FRA believes that soliciting public comment will promote its efforts to reduce the administrative and paperwork burdens associated with the collection of information mandated by Federal regulations. In summary, FRA reasons that comments received will advance three objectives: (i) Reduce reporting burdens; (ii) ensure that it organizes information collection requirements in a ''user friendly'' format to improve the use of such information; and (iii) accurately assess the resources expended to retrieve and produce information requested. *See* 44 U.S.C. 3501.

Below is a brief summary of currently approved information collection activities that FRA will submit for clearance by OMB as required under the PRA:

Title: Hours of Service Regulations.

OMB Control Number: 2130–0005.

Abstract: FRA amended its hours of service recordkeeping regulations, to add substantive hours of service regulations, including maximum on-duty periods, minimum off-duty periods, and other limitations, for train employees (*e.g.,* locomotive engineers and conductors) providing commuter and intercity rail passenger transportation on August 12, 2011. *See* 76 FR 50359. The new substantive regulations require that railroads employing such train employees analyze and mitigate the risks for fatigue in the schedules worked by these train employees, and that the railroads submit to FRA for its approval the relevant schedules and fatigue mitigation plans. This final rule also made corresponding changes to FRA's hours of service recordkeeping regulation to require railroads to keep hours of service records and report excess service to FRA in an manner consistent with the new substantive requirements. This regulation was authorized by the Rail Safety Improvement Act (RSIA) of 2008. The information collected under this rule is used by FRA and its inspectors to ensure compliance with the Hours of Service Laws and the requirements of this regulation. In particular, the new information collected as a result of new Subpart F is used by FRA to verify that the employees of covered commuter and intercity passenger railroads do not exceed maximum on-duty periods, abide by minimum off-duty periods, and adhere to other limitations set forth in this regulation to enhance rail safety and reduce the risk of accidents/incidents caused by train employee fatigue, as well as those accident/incidents where fatigue of train employees served as a contributory factor.

Form Number(s): FRA F 6180.3.

Affected Public: Businesses.

Respondent Universe: 768 railroads/signal contractors.

Frequency of Submission: On occasion/monthly.

Reporting Burden:

CFR section	Respondent universe	Total annual responses	Average time per response	Total annual burden hours
228.11—Hours of Duty Records	768 railroads/signal contractors.	27,429,750 records	1 min./.5 min./10 minutes.	2,856,125
228.17—Dispatcher's Records of Train Movements.	150 Dispatch Offices	200,750 records	3 hours	602,250
228.19—Monthly Reports of Excess Service	300 railroads	2,670 reports	2 hours	5,340
228.103—Construction of Employee Sleeping Quarters—Petitions to Allow Construction near Work Area.	50 railroads	1 petition	16 hours	16
228.203—Program Components—Electronic Recordkeeping—Modification for Daylight Savings Time.	9 railroads	5 modifications	120 hours	600
—System Security/Individual User I.D./P Program Logic Capabilities/Search Capabilities.	9 railroads	1 program with system security etc..	720 hours	720
228.205—Access to Electronic Records—System Access Procedures for Inspectors.	768 railroads/signal contractors.	100 electronic records access procedures.	30 minutes	50
228.207—Training in Use of Electronic System—Initial Training.	768 railroads/signal contractors.	47,000 trained employees.	1 hour	47,000
—Refresher Training	768 railroads/signal contractors.	2200 trained employees	1 hour	2,200
49 U.S.C. 21102(b)—The Federal Hours of Service Laws—Petitions for Exemption from Laws.	10 railroads	2 petition	10 hours	20
228.403—Exemption Requests from Passenger/Commuter Railroads.	280 railroads	5 exemption requests	8 hours	40
—Initial Exemption Requests from Tourist/Excursion Railroads.	140 railroads	10 exemption requests	2 hours	20
—Renewal Exemption Requests from Tourist/Excursion Railroads.	140 railroads	5 exemption requests	30 minutes	3
228.407—Analysis of Work Schedules Submissions.	168 railroads	28 analyses	8 hours	2,240
—Reports to FRA of Work Schedules that Violate Fatigue Threshold.	168 railroads	20 reports	2 hours	40
—Fatigue Mitigation Plans Submitted to FRA	168 railroads	15 plans	4 hours	60
—Submission of Work Schedules Using Validation Model Violating Threshold that can Be Mitigated by Tools.	168 railroads	15 submissions	4 hours	60
—Submission of Work Schedules Using Validation Model Violating Threshold that *cannot* Be Mitigated by Tools.	168 railroads	5 submissions	4 hours	20
—Railroad Determination of Necessary Schedules.	168 railroads	20 decisions	2 hours	40
—Railroad Declaration that No Work Schedule Needs to Be Submitted to FRA for Violating Fatigue Threshold.	168 railroads	148 written declarations	1 hour	148
—Corrected Work Schedules/Etc.	168 railroads	2 documents	2 hours	4
—Submission of Follow-Up Analysis by Railroad Due to Work Schedule Change.	168 railroads	28 analyses	4 hours	112
—Corrected Work Schedules/Etc.	168 railroads	2 documents	2 hours	4
—Updated Fatigue Mitigation Plans	168 railroads	28 plans	4 hours	112
—Railroad Consultation with Employees	168 railroads	20 consults	4 hours	80
—Filed Statements with FRA by Employees and Employee Organizations Unable to Reach Consensus with Railroad on Work Schedules or Mitigation Tools.	Railroad Employees/Employee Organizations.	5 statements	2 hours	10
228.411—Training Programs	168 railroads	29 programs	20 hours	580
—Employee Initial Training	168 railroads	10,200 trained employees.	1 hour	10,200
—New Employees Initial Training	168 railroads	150 trained employees	1 hour	150
—Records of Training	168 railroads	10,350 records	5 minutes	863
—Written Declaration by Tourist Railroads for Exclusion from This Section's Requirements.	140 railroads	100 written declarations	1 hour	100
—Appendix D: Guidance on Fatigue Management Plan.	168 railroads	4 plans	15 hours	60

Estimated Annual Burden: 3,529,267 hours.

Status: Extension of a Currently Approved Collection:

Pursuant to 44 U.S.C. 3507(a) and 5 CFR 1320.5(b), 1320.8(b)(3)(vi), FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Authority: 44 U.S.C. 3501–3520.

Rebecca Pennington,

Chief Financial Officer.

[FR Doc. 2014–06159 Filed 3–20–14; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket No. FTA–2013–0038]

Notice of Buy America Waiver for the Pad and Rubber Boot of a Concrete Block for a Low Vibration Track System

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of Buy America waiver.

SUMMARY: In response to the MTA Capital Construction Company's (MTACC) request for a Buy America waiver for the pad and rubber boot of a concrete block for the Low Vibration Track (LVT) system that it is constructing on behalf of New York Metropolitan Transportation Authority's (MTA) operating agency, New York City Transit (NYCT), the Federal Transit Administration (FTA) hereby waives its Buy America requirements on the basis of non-availability for the pad and rubber boot—components of the concrete blocks used in MTA's LVT system. This waiver is limited to Phase 1 of the Second Avenue Subway Project and is valid only for the pads and rubber boots already procured for this project.

DATES: This waiver is effective immediately.

FOR FURTHER INFORMATION CONTACT: Mary J. Lee, FTA Attorney-Advisor, at (202) 366–0985 or *mary.j.lee@dot.gov*.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to announce that FTA is granting a non-availability waiver for the procurement of pads and rubber boots that are a part of the concrete blocks used for NYCT's LVT system. This LVT system currently is under construction as part of Phase 1 of the Second Avenue Subway Project, which is an FTA-funded project. This waiver is limited to Phase 1 of the Second Avenue Subway Project and is valid only for the pads and boots already procured for use in this project.

With certain exceptions, FTA's Buy America requirements prevent FTA from obligating an amount that may be appropriated to carry out its program for a project unless ''the steel, iron, and manufactured goods used in the project are produced in the United States.'' 49 U.S.C. 5323(j)(1). A manufactured product is considered produced in the United States if: (1) All of the manufacturing processes for the product take place in the United States; and (2) all of the components of the product are of U.S. origin. A component is considered of U.S. origin if it is manufactured in the United States, regardless of the origin of its subcomponents. 49 CFR 661.5(d). If, however, FTA determines that ''the steel, iron, and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality,'' then FTA may issue a waiver (non-availability waiver). 49 U.S.C. 5323(j)(2)(B); 49 CFR 661.7(c).

On September 11, 2013, MTACC formally requested a Buy America waiver for the pad and rubber boot. This request came after FTA issued a June 20, 2013 decision that the pad and rubber boot were components of the concrete block—the manufactured end product. According to MTACC, the LVT system for which the two components would be used to address operational noise and vibration issues, which had been identified as significant adverse impacts in the Final Environmental Impact Statement and Record of Decision for the Second Avenue Subway Project. In addition, among other things, the LVT system is designed to meet National Fire Protection Association requirements and the vertical and horizontal gap tolerances between the platform and the train floor required to comply with the Americans with Disabilities Act. Furthermore, according to MTA, the LVT system has a proven performance history, an expected useful life in excess of 60 years, and would meet the performance requirements of MTA–NYCT's standard specifications.

In its September 11, 2013 request, MTACC also stated that it had, at the time of the procurement, believed that the pad and rubber boot were subcomponents and that they could be foreign-sourced while remaining in compliance with FTA's Buy America requirements. Notwithstanding FTA's caution and this pending waiver request, MTACC has continued to proceed with construction of its LVT system.

On December 17, 2013, FTA published a **Federal Register** notice requesting comment on MTACC's waiver request. 78 FR 76402. No comments were received to the docket.

Concurrently, FTA is working with the U.S. Department of Commerce, National Institute for Standards and Technology (NIST), to determine if there are U.S. manufacturers that may be willing and able to manufacture the pad and rubber boot.

Notwithstanding FTA's research and the possibility that there may be a pad and rubber boot domestically manufactured in the future, because testing of any new product for MTA's LVT system likely would halt the Second Avenue Subway project and could cause an additional delay of over one year, FTA is hereby granting a non-availability waiver for the pad and rubber boot. As stated above, this waiver is limited to Phase 1 of the Second Avenue Subway Project and is valid only for the pads and boots already procured for use in this project.

For any potential Buy America waiver requests that MTA and its operating administrations may decide to make in the future regarding the pad and the rubber boot (or other materials), FTA expects that such requests will be made prior to contract award. While MTACC originally procured the pad and the rubber boot based upon its belief that those items were subcomponents, MTA is now aware that the pad and rubber boot are components of the concrete block. Therefore, FTA will carefully scrutinize any future waiver requests per 49 CFR 661.7(c) and such waiver requests are unlikely to be granted if FTA determines that MTA has not continued its good faith efforts to seek U.S.-manufactured pads and rubber boots. FTA views good faith efforts to include, among other things, engaging U.S. manufacturers in an effort to develop components that are made in the United States, or seeking technical assistance from FTA.

Dana Nifosi,

Deputy Chief Counsel.

[FR Doc. 2014–06220 Filed 3–20–14; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2014–0030]

Reports, Forms, and Recordkeeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Request for extension of a currently approved collection of information.

SUMMARY: This notice solicits public comments on continuation of the requirements for the collection of information on safety standards. Before

a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections.

This document describes a collection of labeling information on five Federal motor vehicle safety standards, for which NHTSA intends to seek OMB approval. The labeling requirements include brake fluid warning, glazing labeling, safety belt labeling, and vehicle certification labeling.

DATES: Comments must be received on or before May 20, 2014.

ADDRESSES: You may submit comments (identified by the DOT Docket ID Number above) by any of the following methods:

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

Regardless of how you submit your comments, you should mention the docket number of this document. You may call the Docket at (202) 366–9324. Please identify the proposed collection of information for which a comment is provided, by referencing its OMB clearance Number. It is requested, but not required, that two copies of the comment be provided.

Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. 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).

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or the street address listed above. Follow the online instructions for accessing the dockets.

FOR FURTHER INFORMATION CONTACT: Complete copies of each request for collection of information may be obtained at no charge from Ms. Lori Summers, U.S. Department of Transportation, NHTSA, Room W43–320, 1200 New Jersey Avenue SE., Washington, DC 20590. Mrs. Summers's telephone number is (202) 366–4917 and fax number is (202) 366–7002.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before a proposed collection of information is submitted to OMB for approval, Federal agencies must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation (at 5CFR 1320.8(d)), an agency must ask for public comment on the following:

(i) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) How to enhance the quality, utility, and clarity of the information to be collected;

(iv) How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks for public comments on the following proposed collection of information:

Title: Consolidated Labeling Requirements for Motor Vehicles (except the VIN) OMB Control Number: 2127–0512.

Requested Expiration Date of Approval: Three years from the approval date.

Type of Request: Extension of a currently approved collection.

Affected Public: Businesses.

Summary of the Collection of Information: 49 U.S.C. 30111 authorizes the issuance of Federal motor vehicle safety standards (FMVSS) and regulations. The agency, in prescribing a FMVSS or regulations, considers available relevant motor vehicle safety data, and consults with other agencies, as it deems appropriate. Further, the statute mandates that in issuing any FMVSS or regulation, the agency considers whether the standard or regulation is ''reasonable, practicable and appropriate for the particular type of motor vehicle or item of motor vehicle equipment for which it is prescribed,'' and whether such a standard will contribute to carrying out the purpose of the Act.

The Secretary is authorized to invoke such rules and regulations, as deemed necessary to carry out these requirements. Using this authority, the agency issued the following FMVSS and regulations, specifying labeling requirements to aid the agency in achieving many of its safety goals:

FMVSS No. 105, ''Hydraulic and electric brake systems,''
FMVSS No. 135, ''Light vehicle brake systems,''
FMVSS No. 205, ''Glazing materials,''
FMVSS No. 209, ''Seat belt assemblies,'' and
Part 567, ''Certification.''

This notice requests comments on the labeling requirements of these FMVSS and regulations.

FMVSS No. 105, ''Hydraulic and electric brake systems'' and FMVSS No. 135, ''Light vehicle brake systems,'' require that each vehicle shall have a brake fluid warning statement in letters at least one-eighth of an inch high on the master cylinder reservoirs and located so as to be visible by direct view.

FMVSS No. 205, ''Glazing materials,'' provides labeling requirements for glazing and motor vehicle manufacturers. In accordance with the standard, NHTSA requires each new motor vehicle glazing manufacturer to request and be assigned a unique mark or number. This number is then used by the manufacturer as their unique company identification on their self-certification label on each piece of motor vehicle glazing. As part of that certification label, the company must identify with the simple two or three digit number assigned by the agency and the model of the glazing. In addition to these requirements, which apply to all glazing, certain specialty glazing items, such as standee windows in buses, roof openings, and interior partitions made of plastic require that the manufacturer affix a removable label to each item. The label specifies cleaning instructions, which will minimize the loss of transparency.

Other information may be provided by the manufacturer but is not required.

FMVSS No. 209, ''Seat belt assemblies,'' requires safety belts to be labeled with the year of manufacture, the model, and the name or trademark of the manufacturer (S4.1(j)). Additionally replacement safety belts that are for use only in specifically stated motor vehicles must have labels or accompanying instruction sheets to specify the applicable vehicle models and seating positions (S4.1(k)). All other replacement belts are required to be accompanied by an installation instruction sheet (S4.1(k)).

Seat belt assemblies installed as original equipment in new motor vehicles need not be required to be labeled with position/model information. This information is only useful if the assembly is removed with the intention of using the assembly as a replacement in another vehicle; this is not a common practice.

Part 567, ''Certification,'' requires each manufacturer or distributor of motor vehicles to furnish to the dealer, or distributor of the vehicle, a certification that the vehicle meets all applicable FMVSS. This certification is required by that provision to be in the form of a label permanently affixed to the vehicle. Under 49 U.S.C. 32504, vehicle manufacturers are directed to make a similar certification with regard to bumper standards. To implement this requirement, NHTSA issued 49 CFR Part 567. The agency's regulations establish form and content requirements for the certification labels.

Description of the Likely Respondents (Including Estimated Number and Proposed Frequency of Response to the Collection of Information): NHTSA anticipates that approximately 25 new prime glazing manufactures per year will contact the agency and request a manufacturer identification number. These new glazing manufacturers must submit one letter, one time, identifying their company. In turn, the agency responds by assigning them a unique manufacturer number. For other collections in this notice, no response is necessary from manufacturers. These labels are only required to be placed on each master cylinder reservoir, each safety belt and every motor vehicle intended for retain sale in the United States. Therefore, the number of respondents is not applicable.

Estimate of the Total Annual Reporting and Recordkeeping Burden Resulting from the Collection of Information: NHTSA estimates that all manufacturers will need a total of 74,091 hours to comply with these requirements, at a total annual cost of 1,481,320.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Authority: 44 U.S.C. 3506(c); delegation of authority at 49 CFR 1.50.

Lori K. Summers,

Director, Office of Crashworthiness Standards.

[FR Doc. 2014–06152 Filed 3–20–14; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[U.S. DOT Docket Number NHTSA–2014–0018]

Reports, Forms, and Recordkeeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Request for public comment on an extension of a currently approved collection.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections.

This document describes one collection of information for which NHTSA intends to seek OMB approval.

DATES: Comments must be received on or before May 20, 2014.

ADDRESSES: Comments must refer to the docket notice numbers cited at the beginning of this notice and be submitted to Docket Management, Room W12–140, Ground Level, 1200 New Jersey Avenue SE., Washington, DC 20590 by any of the following methods.

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Agency Web site: http://dms.dot.gov.* Follow the instructions for submitting comments on the Docket Management System.
- *Fax:* (202) 493–2251.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Hand Delivery/Courier:* 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. Telephone: 1–800–647–5527.

Instructions: All submissions must include the agency name and docket number for this proposed collection of information. Note that all comments received will be posted without change to *http://dms.dot.gov* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to Room W12–140 on the ground level of the DOT Building, 1200 New Jersey Avenue SE., West Building, Ground Floor, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Complete copies of each request for collection of information may be obtained at no charge from Carlita Ballard, NHTSA 1200 New Jersey Avenue SE., Room W43–439, NVS–131, Washington, DC 20590. Ms. Ballard's telephone number is (202) 366–5222. Please identify the relevant collection of information by referring to its OMB Control Number.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information.

The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following:

(i) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) How to enhance the quality, utility, and clarity of the information to be collected and;

(iv) How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks for public comments on the following proposed collections of information:

Title: Petitions for Exemption From the Vehicle Theft Prevention Standard (49 CFR Part 543).

OMB Control Number: 2127–0542.

Form Number: None.

Affected Public: Motor vehicle manufacturers.

Requested Expiration Date of Approval: Three years from approval date.

Abstract: Manufacturers of passenger vehicle lines may petition the agency for an exemption from Part 541 requirements, if the line is equipped with an anti-theft device as standard equipment and meets agency criteria. Device must be as effective as parts-marking.

Estimated Annual Burden: 1,826.

Number of Respondents: 11.

49 U.S.C. Chapter 331 requires the Secretary of Transportation to promulgate a theft prevention standard to provide for the identification of certain motor vehicles and their major replacement parts to impede motor vehicle theft. 49 U.S.C. Section 33106 provides for an exemption to this identification process by petitions from manufacturers who equip covered vehicles with standard original equipment antitheft devices, which the Secretary determines are likely to be as effective in reducing or deterring theft as parts-marking. NHTSA may exempt a vehicle line from the parts marking requirement, if the manufacturer installs an antitheft device as standard equipment on the entire vehicle line for which it seeks an exemption and NHTSA determines that the antitheft device is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements. In accordance with 49 U.S.C. 33106, after model year (MY) 2000, the number of new exemptions is contingent on a finding by the Attorney General as part of its long-range review of effectiveness. After consulting with DOJ, the agency decided it could continue granting one exemption per model year pending the results of the long-term review.

In a final rule published on April 6, 2004, the Federal Motor Vehicle Theft Prevention Standard was extended to include all passenger cars and multipurpose passenger vehicles with a gross vehicle rating of 6,000 pounds or less, and to light duty trucks with major parts that are interchangeable with a majority of the covered major parts of multipurpose passenger vehicles. Consistent with this DOJ consultation, the April 6, 2004 final rule amended the general requirements of Section 543.5 of Chapter 49 of the Code of Federal Regulations, allowing a manufacturer to petition NHTSA to grant an exemption for one additional line of its passenger motor vehicles from the requirements of the theft prevention standard for each model year after MY 1996. The final rule became effective September 1, 2006.

Prior to September 1, 2006, manufacturers were only allowed to petition NHTSA for high-theft vehicles lines. In its April 6, 2004 final rule, the agency amended part 543 to allow vehicle manufacturers to file petitions to exempt all vehicle lines that would become subject to parts-marking requirements beginning with the effective date of the final rule. As a result of this amendment, vehicle manufacturers are allowed to file petitions to exempt all vehicles lines that would become subject to the parts-marking requirements regardless of their theft status (high or low). While there are approximately 21 vehicle manufacturers, 33 petitions for exemption from the parts-marking requirements have been received by the agency for MYs 2013–2015, averaging approximately 11 responses per year. We anticipate this to remain the average number of yearly responses received by the agency.

NHTSA estimates that the average hours per submittal will be 166, for a total annual burden of 1,826. NHTSA estimates that the cost associated with the burden hours is a $39.49 per hour, for a total cost of approximately $72,109.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Lori K. Summers,

Director, Office of Crashworthiness Standards.

[FR Doc. 2014–06215 Filed 3–20–14; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2013–0107; Notice 1]

Notice of Receipt of Petition for Decision That Nonconforming 2010 Ferrari California Passenger Cars 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 nonconforming 2010 Ferrari California passenger cars 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 (the U.S.-certified version of the 2010 Ferrari California) and they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is April 21, 2014.

ADDRESSES: Comments should refer to the docket and notice numbers above and be submitted by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. e.t., 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**.

J.K. Technologies, LLC of Baltimore, Maryland (Registered Importer 90–006) has petitioned NHTSA to decide whether nonconforming 2010 Ferrari California passenger cars are eligible for importation into the United States. The vehicles which J.K. Technologies believes are substantially similar are 2010 Ferrari California passenger cars 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 2010 Ferrari California passenger cars to their U.S.-certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most FMVSS.

J.K. Technologies submitted information with its petition intended to demonstrate that non-U.S. certified 2010 Ferrari California passenger cars, 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 2010 Ferrari California passenger cars 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,* 106 *Brake Hoses,* 113 *Hood Latch System,* 116 *Motor Vehicle Brake Fluids,* 118 *Power-Operated Window, Partition, and Roof Panel Systems,* 124 *Accelerator Control Systems,* 126 *Electronic Stability Control Systems,* 135 *Light Vehicle Brake Systems,* 138 *Tire Pressure Monitoring Systems,* 139 *New Pneumatic Radial Tires for Light Vehicles,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 210 *Seat Belt Assembly Anchorages,* 212 *Windshield Mounting,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* 225 *Child Restraint Anchorage Systems,* 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:* Replacement of the instrument cluster with a U.S.-model component and reprogramming of the vehicle computer.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* Replacement of the headlamps, side marker lamps, and tail lamps with U.S.-model components and reprogramming the vehicle computer to activate necessary systems.

Standard No. 110 *Tire Selection and Rims for Motor Vehicles with a GVWR of 4,536 kilograms (10,000 pounds) or Less:* Installation of a tire information placard.

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:* Reprogramming the vehicle computer to activate the key warning system.

Standard No. 118 *Power-Operated Window, Partition, and Roof Panel Systems:* Reprogramming of the vehicle computer.

Standard No. 207 *Seating Systems:* Replacement of non-conforming seating systems with parts complying with advanced airbag regulations from U.S.-model of the vehicle.

Standard No. 208 *Occupant Crash Protection:* Inspection to confirm that belts, airbags, sensors, control units, wiring harnesses, knee bolsters, and braces bear U.S.-model part numbers. Non-U.S.-model parts will be replaced with U.S.-model components to render the vehicle identical to the U.S.-model in regards to the standard. Reprogram the vehicle computer to activate the seat belt warning system.

Standard No. 209 *Seat Belt Assemblies:* Inspection of seatbelts and replacement of non-conforming belts with U.S.-model components.

Standard No. 214 *Side Impact Protection:* Inspect each vehicle for the presence of compliant door panel airbags as well as other side impact components, replacing non-conforming parts with U.S.-model components.

Standard No. 301 *Fuel System Integrity:* Inspection of all vehicles and replacement of any non U.S.-model fuel system components with U.S.-model

components as necessary to conform to the requirements of FMVSS No. 301.

Standard No. 401 *Interior Trunk Release:* Installation of U.S.-model interior trunk release components.

The petitioner states that the bumpers and bumper support structure are identical to that of the U.S. certified model. However, the bumper reinforcements and brackets must be inspected to ensure that the correct components were installed prior to importation. If not, they must be replaced with U.S.-model components to comply with 49 CFR Part 581.

The petitioner additionally states that a vehicle identification plate must be affixed to the vehicles near the left windshield post to meet the requirements of 49 CFR Part 565.

Because the subject petition covers nonconforming vehicles that have been manufactured on or after September 1, 2006, compliance with the advanced air bag requirements of FMVSS No. 208 is of significant concern to the agency. NHTSA is therefore particularly interested in comments regarding the ability of a Registered Importer to readily alter the subject vehicles to fully meet the driver and front outboard passenger frontal crash protection and child passenger protection requirements of FMVSS No. 208. The following is a partial listing of the components that may be affected:

a. Driver's frontal air bag module
b. Passenger frontal air bag module
c. Passenger frontal air bag cover
d. Knee air bags
e. Knee bolsters
f. Passenger outboard frontal seat belt system
g. Driver and front outboard seat assemblies including seat tracks and internal seat components
h. Steering wheel components, including the clock spring assembly, the steering column, and all connecting components
i. Instrument panel
j. Instrument panel support structure (i.e. cross beam)
k. Occupant sensing and classification systems, including sensors and processors
l. Restraint control modules
m. Passenger air bag status indicator light system, including related display components and wiring
n. Wiring harnesses between the restraint control module, occupant classification system and restraint system components
o. Control system computer software and firmware

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.

Dated: March 10, 2014.

Coleman Sachs,

Acting Director, Office of Vehicle Safety Compliance.

[FR Doc. 2014–06165 Filed 3–20–14; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2013–0108; Notice 1]

Notice of Receipt of Petition for Decision That Nonconforming 2011 Ferrari 599 GTO Passenger Cars 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 nonconforming 2011 Ferrari 599 GTO passenger cars 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 (the U.S.-certified version of the 2011 Ferrari 599 GTO) and they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is April 21, 2014.

ADDRESSES: Comments should refer to the docket and notice numbers above and be submitted by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
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- *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).

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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**.

J.K. Technologies, LLC. of Baltimore, Maryland (Registered Importer 90–006) has petitioned NHTSA to decide whether nonconforming 2011 Ferrari 599 GTO passenger cars are eligible for importation into the United States. The vehicles which J.K. Technologies believes are substantially similar are 2011 Ferrari 599 GTO passenger cars 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 2011 Ferrari 599 GTO passenger cars to their U.S.-certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most FMVSS.

J.K. Technologies submitted information with its petition intended to demonstrate that non-U.S. certified 2011 Ferrari 599 GTO passenger cars, 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 Ferrari 599 GTO passenger cars 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,* 106 *Brake Hoses,* 113 *Hood Latch System,* 116 *Motor Vehicle Brake Fluids,* 124 *Accelerator Control Systems,* 126 *Electronic Stability Control Systems,* 135 *Light Vehicle Brake Systems,* 138 *Tire Pressure Monitoring Systems,* 139 *New Pneumatic Radial Tires for Light Vehicles,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 210 *Seat Belt Assembly Anchorages,* 212 *Windshield Mounting,* 214 *Side Impact Protection,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* 225 *Child Restraint Anchorage Systems,* 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:* Replacement of the instrument cluster with a U.S.-model component and reprogramming of the vehicle computer.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* Replacement of the headlamps, side marker lamps, and tail lamps with U.S.-model components and reprogramming the vehicle computer to activate necessary systems.

Standard No. 110 *Tire Selection and Rims for Motor Vehicles with a GVWR of 4,536 kilograms (10,000 pounds) or Less:* Installation of a tire information placard.

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:* Reprogramming the vehicle computer to activate the key warning system.

Standard No. 118 *Power-Operated Window, Partition, and Roof Panel Systems:* Reprogramming of the vehicle computer.

Standard No. 207 *Seating Systems:* Replacement of non-conforming seating systems with parts complying with advanced airbag regulations from U.S.-model of the vehicle.

Standard No. 208 *Occupant Crash Protection:* Inspection to confirm that belts, airbags, sensors, control units, wiring harnesses, knee bolsters, and braces bear U.S.-model part numbers. Non-U.S.-model parts will be replaced with U.S.-model components to render the vehicle identical to the U.S.-model in regards to the standard. Reprogram the vehicle computer to activate the seat belt warning system.

Standard No. 209 *Seat Belt Assemblies:* Inspection of seatbelts and replacement of non-conforming belts with U.S.-model components.

Standard No. 301 *Fuel System Integrity:* Inspection of all vehicles and replacement of any non U.S.-model fuel system components with U.S.-model components as necessary to conform to the requirements of FMVSS No. 301.

Standard No. 401 *Interior Trunk Release:* Installation of U.S.-model interior trunk release components.

The petitioner states that the bumpers and bumper support structure are identical to that of the U.S. certified model. However, the bumper reinforcements and brackets must be inspected to ensure that the correct components were installed prior to importation. If not, they must be replaced with U.S.-model components to comply with 49 CFR part 581.

The petitioner additionally states that a vehicle identification plate must be affixed to the vehicles near the left windshield post to meet the requirements of 49 CFR part 565.

Because the subject petition covers nonconforming vehicles that have been manufactured on or after September 1, 2006, compliance with the advanced air bag requirements of FMVSS No. 208 is of significant concern to the agency. NHTSA is therefore particularly interested in comments regarding the ability of a Registered Importer to readily alter the subject vehicles to fully meet the driver and front outboard passenger frontal crash protection and child passenger protection requirements of FMVSS No. 208. The following is a partial listing of the components that may be affected:

a. Driver's frontal air bag module
b. Passenger frontal air bag module
c. Passenger frontal air bag cover
d. Knee air bags
e. Knee bolsters
f. Passenger outboard frontal seat belt system
g. Driver and front outboard seat assemblies including seat tracks and internal seat components
h. Steering wheel components, including the clock spring assembly, the steering column, and all connecting components
i. Instrument panel
j. Instrument panel support structure (i.e. cross beam)
k. Occupant sensing and classification systems, including sensors and processors
l. Restraint control modules
m. Passenger air bag status indicator light system, including related display components and wiring
n. Wiring harnesses between the restraint control module, occupant classification system and restraint system components
o. Control system computer software and firmware

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.

Dated: March 10, 2014.

Coleman Sachs,

Acting Director, Office of Vehicle Safety Compliance.

[FR Doc. 2014–06168 Filed 3–20–14; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Saint Lawrence Seaway Development Corporation

Advisory Board; Notice of Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I), notice is hereby given of a meeting of the Advisory Board of the Saint Lawrence Seaway Development Corporation (SLSDC), to be held from 8 a.m. to 9:45 a.m. (EDT) on Thursday, April 24, 2014 at the SLSDC's Administration Building, 180 Andrews Street, Massena, New York 13662. The agenda for this meeting will be as follows: Opening Remarks; Consideration of Minutes of Past Meeting; Quarterly Report; Old and New Business; Closing Discussion; Adjournment.

Attendance at the meeting is open to the interested public but limited to the space available. With the approval of the Administrator, members of the public may present oral statements at the meeting. Persons wishing further information should contact, not later than Friday, April 18, 2014, Anita K. Blackman, Senior Advisor to the Administrator, Saint Lawrence Seaway Development Corporation, 1200 New Jersey Avenue SE., Washington, DC 20590; 202–366–0091.

Any member of the public may present a written statement to the Advisory Board at any time.

Issued at Washington, DC, on March 17, 2014.

Carrie Lavigne,

Chief Counsel.

[FR Doc. 2014–06151 Filed 3–20–14; 8:45 am]

BILLING CODE 4910–61–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35798]

RMW Ventures, LLC—Corporate Family Transaction—Big Four Terminal Railroad, LLC, and Wabash Central Railway, LLC

RMW Ventures, LLC (RMW) filed a verified notice of exemption under 49 CFR 1180.2(d)(3) for a corporate family transaction within the family of business entities owned by Spencer N. Wendelin.

According to RMW, Mr. Wendelin currently owns RMW and the stock of both Big Four Terminal Railroad, LLC (BFTR) and Wabash Central Railway, LLC (WCR), Class III rail carriers. Applicant seeks authorization for RMW to acquire the stock of BFTR and WCR. According to RMW, the purpose of this transaction is to allow Mr. Wendelin to retain indirect control of BFTR and WCR through RMW.[1]

Applicant anticipates consummating the proposed transaction after the effective date of the exemption (30 days after the exemption was filed).[2]

This is a transaction within a corporate family of the type exempted from prior review and approval under 49 CFR 1180.2(d)(3). RMW states that the transaction will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here, because the transaction involves only Class III rail carriers.

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 no later than March 28, 2014 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35798, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on counsel for RMW, Richard R. Wilson, 518 N. Center Street, Ste. 100, Ebensburg, PA 15931.

Board decisions and notices are available on our Web site at ''*WWW.STB.DOT.GOV*.''

Decided: March 17, 2014.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Raina S. White,

Clearance Clerk.

[FR Doc. 2014–06210 Filed 3–20–14; 8:45 am]

BILLING CODE 4915–01–P

[1] This transaction is related to a concurrently filed verified notice of exemption in *Spencer N. Wendelin—Continuance in Control—RMW Ventures, LLC, Big Four Terminal Railroad, LLC, and Wabash Central Railway, LLC,* Docket No. FD 35801, wherein Mr. Wendelin seeks continuance in control authority for RMW, BFTR, and WCR.

[2] Applicant filed an amended notice of exemption on March 5, 2014. The proposed transaction may be consummated on April 4, 2014, the same day the notice of exemption in Docket No. FD 35801 becomes effective.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35801]

Spencer N. Wendelin—Continuance in Control—RMW Ventures, LLC, Big Four Terminal Railroad, LLC, and Wabash Central Railway, LLC

Spencer N. Wendelin (Applicant), a noncarrier individual, has filed a verified notice of exemption under 49 CFR 1180.2(d)(2) to continue in control of RMW Ventures, LLC (RMW) and Big Four Terminal Railroad, LLC (BFTR), a Class III rail carrier.

Applicant states that he owns and controls both RMW and BFTR. Applicant also states that he owns and controls Wabash Central Railway, LLC (WCR), a Class III rail carrier. In 2010, BFTR filed a verified notice of exemption under 49 CFR 1150.31 to operate 5.2+/− miles of rail line owned by RMW located between milepost 0.0 in Connorsville, Ind., and milepost 5.2+/− in Beesons, Ind., in Fayette and Wayne Counties, Ind. *Big Four Terminal R.R.—Operation Exemption—RMW Ventures,* FD 35454 (STB served Dec. 30, 2010). According to Applicant, BFTR was incorporated to operate this 5.2-mile line of railroad in 2010, at which time Applicant also owned and controlled RMW. Applicant states that, during the incorporation of BFTR, he inadvertently did not seek continuance in control authority involving BFTR. Applicant filed the verified notice of exemption with the Board to correct that oversight on February 12, 2014.

Applicant amended the notice on March 5, 2014.[1] Thus, the effective date of the exemption is April 4, 2014 (30 days after the verified notice of exemption was filed).

This transaction is related to a concurrently filed verified notice of exemption in *RMW Ventures, LLC—Corporate Family Transaction—Big Four Terminal Railroad, LLC,* Docket No. FD 35798, wherein RMW seeks Board approval to acquire the stock of BFTR and WCR.

Applicant represents that: (1) The rail lines of RMW, BFTR, and WCR do not connect with each other or any railroads in their corporate family; (2) the continuance in control is not part of a series of anticipated transactions that would connect the railroads with each other or any railroads in their corporate family; and (3) the transaction does not involve a Class I carrier. Therefore, the proposed transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under §§ 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here, because all of the carriers involved are Class III carriers.

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. Stay petitions must be filed no later than March 28, 2014 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35801, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Richard R. Wilson, 518 N. Center Street, Ste. 1, Ebensburg, PA 15931.

Board decisions and notices are available on our Web site at ''*WWW.STB.DOT.GOV.*''

Decided: March 17, 2014.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2014–06195 Filed 3–20–14; 8:45 am]

BILLING CODE 4915–01–P

[1] Accordingly, March 5, 2014, is the official filing date. While the verified notice indicates that Applicant is seeking an exemption to authorize the continuance in control ''*nunc pro tunc*'' (retroactively), the authority will be effective prospectively from April 4, 2014. The class exemption invoked by Applicant does not provide for retroactive effectiveness.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Release of Waybill Data

The Surface Transportation Board has received a request from the Association of American Railroads (WB463–16—11/20/13) for permission to use certain data from the Board's Carload Waybill Samples. A copy of this request may be obtained from the Office of Economics.

The waybill sample contains confidential railroad and shipper data; therefore, if any parties object to these requests, they should file their objections with the Director of the Board's Office of Economics within 14 calendar days of the date of this notice. The rules for release of waybill data are codified at 49 CFR 1244.9.

Contact: Scott Decker, (202) 245–0348.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2014–06194 Filed 3–20–14; 8:45 am]

BILLING CODE 4915–01–P

FEDERAL REGISTER

Vol. 79 Friday,

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Part II

Department of Health and Human Services

45 CFR Parts 146, 147, 148, et al.

Patient Protection and Affordable Care Act; Exchange and Insurance Market Standards for 2015 and Beyond; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Parts 146, 147, 148, 153, 155, 156, and 158

[CMS–9949–P]

RIN 0938–AS02

Patient Protection and Affordable Care Act; Exchange and Insurance Market Standards for 2015 and Beyond

AGENCY: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

ACTION: Proposed rule.

SUMMARY: This proposed rule addresses various requirements applicable to health insurance issuers, Affordable Insurance Exchanges (''Exchanges''), Navigators, non-Navigator assistance personnel, and other entities under the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act of 2010 (collectively referred to as the Affordable Care Act). Specifically, the rule proposes standards related to product discontinuation and renewal, quality reporting, non-discrimination standards, minimum certification standards and responsibilities of qualified health plan (QHP) issuers, the Small Business Health Options Program, and enforcement remedies in Federally-facilitated Exchanges. It also proposes: A modification of HHS's allocation of reinsurance contributions collected if those contributions do not meet our projections; certain changes to the ceiling on allowable administrative expenses in the risk corridors calculation; modifications to the way we calculate certain cost-sharing parameters so that we round those parameters down to the nearest $50 increment; certain approaches we are considering to index the required contribution used to determine eligibility for an exemption from the shared responsibility payment under section 5000A of the Internal Revenue Code; grounds for imposing civil money penalties on persons who provide false or fraudulent information to the Exchange and on persons who improperly use or disclose information; updated standards for the consumer assistance programs; standards related to the opt-out provisions for self-funded, non-Federal governmental plans and the individual market provisions under the Health Insurance Portability and Accountability Act of 1996; standards for recognition of certain types of foreign group health coverage as minimum essential coverage; amendments to Exchange appeals standards and coverage enrollment and termination standards; and time-limited adjustments to the standards relating to the medical loss ratio program.

DATES: To be assured consideration, comments must be received at one of the addresses provided below no later than 5 p.m. on April 21, 2014.

ADDRESSES: In commenting, please refer to file code CMS–9949–P. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of four ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to *http://www.regulations.gov.* Follow the ''Submit a comment'' instructions.

2. *By regular mail.* You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–9949–P, P.O. Box 8016, Baltimore, MD 21244–8016.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–9949–P, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

4. *By hand or courier.* Alternatively, you may deliver (by hand or courier) your written comments ONLY to the following addresses prior to the close of the comment period:

a. For delivery in Washington, DC—Centers for Medicare & Medicaid Services, Department of Health and Human Services, Room 445–G, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

(Because access to the interior of the Hubert H. Humphrey Building is not readily available to persons without Federal government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

b. For delivery in Baltimore, MD—Centers for Medicare & Medicaid Services, Department of Health and Human Services, 7500 Security Boulevard, Baltimore, MD 21244–1850.

If you intend to deliver your comments to the Baltimore address, call telephone number (410) 786–9994 in advance to schedule your arrival with one of our staff members.

Comments erroneously mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: For general matters and matters related to Parts 146 through 148: Jacob Ackerman, (301) 492–4179.

For matters related to reinsurance, under Part 153: Adrianne Glasgow, (410) 786–0686.

For matters related to risk corridors, under Part 153: Jaya Ghildiyal, (301) 492–5149.

For matters related to non-interference with Federal law and non-discrimination standards, and Navigator, non-Navigator assistance personnel, and certified application counselor program standards, under Part 155, subparts B and C: Joan Matlack, (301) 492–4223.

For matters related to civil money penalties and consumer authorization forms, under Part 155, subpart C: Emily Ames, (301) 492–4246.

For matters related to civil money penalties for false or fraudulent information or improper use of information, under Part 155, subpart C: Julia Cassidy, (301) 492–4412.

For matters related to enrollment of a qualified individual, under Part 155, subpart E: Jack Lavelle, (410) 786–0639.

For matters related to special enrollment periods and exemptions under Part 155, subparts D and G, and matters related to eligibility appeals, under Part 155, subparts F and H: Christine Hammer, (301) 492–4431.

For matters related to the Small Business Health Options Program, under Part 155, subpart H: Christelle Jang, (410) 786–8438.

For matters related to the required contribution percentage for affordability exemptions, under Part 155, subpart G: Ariel Novick, (301) 492–4309.

For matters related to cost sharing, under Part 156, subpart B: Pat Meisol, (410) 786–1917.

For matters related to quality standards, under Parts 155 and 156: Nidhi Singh Shah, (301) 492–5110.

For matters related to minimum essential coverage, under Part 156, subpart G: Cam Clemmons, (410) 786–1565.

For all other matters related to Parts 155 and 156: Leigha Basini, (301) 492–4380.

For matters related to the medical loss ratio program, under Part 158: Julie McCune, (301) 492–4196.

SUPPLEMENTARY INFORMATION:

Electronic Access

This **Federal Register** document is also available from the **Federal Register** online database through *Federal Digital System (FDsys),* a service of the U.S. Government Printing Office. This database can be accessed via the internet at *http://www.gpo.gov/fdsys.*

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following Web site as soon as possible after they have been received: *http://www.regulations.gov.* Follow the search instructions on that Web site to view public comments.

Comments received timely will also be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone 1–800–743–3951.

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Abbreviations

Affordable Care Act The collective term for the Patient Protection and Affordable Care Act (Pub. L. 111–148) and the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111–152)
AV Actuarial Value
CAC Certified Application Counselor
CAHPS® Consumer Assessment of Healthcare Providers and Systems
CFR Code of Federal Regulations
CMP Civil Money Penalty
CMS Centers for Medicare & Medicaid Services
CSR Cost-Sharing Reductions
DSH Disproportionate Share Hospital
EHB Essential Health Benefits
ERISA Employee Retirement Income Security Act of 1974 (Pub. L. 93–406)
ESS Enrollee Satisfaction Survey
FFE Federally-facilitated Exchange
FF–SHOP Federally-facilitated Small Business Health Options Program
FQHC Federally Qualified Health Center
HHS United States Department of Health and Human Services
HIPAA Health Insurance Portability and Accountability Act of 1996 (Pub. L. 104–191)
IRS Internal Revenue Service
MLR Medical Loss Ratio
NAIC National Association of Insurance Commissioners
OMB Office of Management and Budget
OPM United States Office of Personnel Management
PHS Act Public Health Service Act
PRA Paperwork Reduction Act of 1995
PSO Patient Safety Organization
QHP Qualified health plan
QRS Quality Rating System
SHOP Small Business Health Options Program
The Code Internal Revenue Code of 1986
URL Uniform Resource Locator

I. Executive Summary

Since January 1, 2014, qualified individuals and small employers have been able to obtain private health insurance through Affordable Insurance Exchanges, or ''Exchanges'' (also known as Health Insurance Marketplaces, or ''Marketplaces'').[1] The Exchanges provide competitive marketplaces where individuals and small employers can compare available private health insurance options on the basis of price, quality, and other factors. The Exchanges help enhance competition in the health insurance market, improve choice of affordable health insurance, and give small businesses the same purchasing power as large businesses.

Individuals who enroll in qualified health plans (QHPs) through individual market Exchanges may be eligible to receive premium tax credits to make health insurance purchased through an Exchange more affordable and cost-sharing reductions that lower out-of-pocket expenses for health care services. The premium tax credits, combined with the new insurance reforms, will significantly increase the number of individuals with health insurance coverage. Premium stabilization programs—risk adjustment, reinsurance, and risk corridors—protect against adverse selection in the newly enrolled population. These programs, in combination with the medical loss ratio program and market reforms extending guaranteed availability (also known as guaranteed issue) protections, prohibiting the use of factors such as health status, medical history, gender, and industry of employment to set premium rates, will help to ensure that every American has access to high quality, affordable health insurance.

This proposed rule would address various requirements applicable to health insurance issuers, Exchanges, Navigators, non-Navigator assistance personnel, and other entities under the Affordable Care Act. Specifically, the rule proposes standards related to product discontinuation and renewal, quality reporting, non-discrimination standards, minimum certification standards and responsibilities of qualified health plan (QHP) issuers, the Small Business Health Options Program, and enforcement remedies in Federally-facilitated Exchanges. It also proposes: A modification of HHS's allocation of reinsurance contributions collected if those contributions do not meet our projections; certain changes to the ceiling on allowable administrative expenses in the risk corridors calculation; modifications to the way we calculate certain cost-sharing parameters so that we round those parameters down to the nearest $50 increment; certain approaches we are considering to index the required contribution used to determine eligibility for an exemption from the shared responsibility payment under section 5000A of the Internal Revenue Code; grounds for imposing civil money penalties on persons who provide false or fraudulent information to the Exchange and on persons who improperly use or disclose information; updated standards for the consumer assistance programs; standards related to the opt-out provisions for self-funded, non-Federal governmental plans and the individual market provisions under the Health Insurance Portability and Accountability Act of 1996; standards for recognition of certain types of foreign group health coverage as minimum essential coverage; amendments to Exchange appeals standards and coverage enrollment and termination standards; and time-limited adjustments to the standards relating to the medical loss ratio program. Nearly all of these proposed policies were described in the preamble to the final rule titled, HHS Notice of Benefit and Payment Parameters for 2015, published on March 11, 2014 (79 FR 13744) (2015 Payment Notice).[2]

Product Withdrawal and Uniform Modification of Coverage Exceptions to Guaranteed Renewability Requirements: Under sections 2702 and 2703 of the Public Health Service Act (PHS Act), as added by the Affordable Care Act, health insurance issuers in the group and individual markets must guarantee the availability and renewability of coverage unless an exception applies. In this proposed rule, we propose criteria for determining when modifications made by an issuer to the health insurance coverage for a product would and would not constitute the discontinuation of an existing product and the creation of a new product. We also propose that issuers use standard consumer notices in a format designated by the Secretary when discontinuing or renewing a product in the group or

[1] The word ''Exchanges'' refers to both State Exchanges, also called State-based Exchanges, and Federally-facilitated Exchanges (FFEs). In this proposed rule, we use the terms ''State Exchange'' or ''FFE'' when we are referring to a particular type of Exchange. When we refer to ''FFEs,'' we are also referring to State Partnership Exchanges, which are a form of FFEs.

[2] Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2015, 79 FR 13744 (March 11, 2014).

individual market. Additionally, we propose to clarify that the guaranteed availability and renewability requirements should not be construed to supersede other provisions of Federal law in certain circumstances.

Conforming Changes to Individual Market Provisions: Sections 2741 through 2744 of the PHS Act were added by HIPAA to improve the portability and continuity of coverage in the individual health insurance market. These provisions are implemented through regulations in 45 CFR Part 148. In this proposed rule, we propose to amend the individual market provisions in Part 148 to reflect the amendments made by the Affordable Care Act. These amendments are for clarity only.

Fixed Indemnity Insurance in the Individual Market: Consistent with previously released guidance, we propose to amend the criteria for fixed indemnity insurance to be treated as an excepted benefit in the individual health insurance market.[3] The proposed amendments would eliminate the requirement that individual fixed indemnity insurance must pay on a per-period basis (as opposed to a per-service basis), and instead require, among other things, that it be sold only as secondary to other health coverage that is minimum essential coverage to be considered an excepted benefit.

HIPAA Opt-Out for Self-Funded, Non-Federal Governmental Plans: Prior to enactment of the Affordable Care Act, sponsors of self-funded, non-Federal governmental plans were permitted to elect to exempt those plans from (''opt out of'') certain provisions of title XXVII of the PHS Act. Consistent with previously released guidance, we propose amendments to the non-Federal governmental plan regulations (45 CFR 146.180) to reflect the amendments made by the Affordable Care Act to these provisions.[4]

Premium Stabilization Programs: The Affordable Care Act establishes three premium stabilization programs—risk adjustment, reinsurance, and risk corridors—to protect against adverse selection. The goal of the permanent risk adjustment program is to mitigate the impacts of possible adverse selection and stabilize the premiums in the individual and small group markets as and after insurance market reforms are implemented. The Affordable Care Act also directs that a transitional reinsurance program be established in each State to help stabilize premiums for coverage by helping to pay the cost of treating high-cost enrollees in the individual market from 2014 through 2016.

Both the reinsurance and risk adjustment programs are subject to the fiscal year 2015 sequestration. The risk adjustment and reinsurance programs will be sequestered at a rate of 7.3 percent in fiscal year 2015. The Federal government's 2015 fiscal year begins on October 1, 2014. HHS, in coordination with the OMB, has determined that, pursuant to section 256(k)(6) of the Balanced Budget and Emergency Deficit Control Act of 1985 as amended, and the underlying authority for these programs, funds that are sequestered in fiscal year 2015 from the reinsurance and risk adjustment programs will become available for payment to issuers in fiscal year 2016 without further Congressional action. HHS is still working through operational questions regarding the structure and timing of these payments, but aims to make payments of sequestered fiscal year 2015 funding for the reinsurance and risk adjustment programs, which would have otherwise been paid in the summer of 2015, as soon as practicably possible in fiscal year 2016, which begins on October 1, 2015. Should Congress fail to enact deficit reduction that replaces the Joint Committee reductions, these programs would be sequestered in future fiscal years, and any sequestered funding would become available in the fiscal year following that in which it was sequestered.

In this proposed rule, we solicit feedback on potential revisions to the allocation of reinsurance contributions collected and we suggest an approach such that the contributions collected under that program are allocated first to the reinsurance pool and administrative expenses, and second to the U.S. Treasury. In addition, we invite comment on alternative allocation approaches to maximize the premium stabilization benefits of the program.

We also propose changing the limit on allowable administrative costs to 22 percent and the limit on profits to 5 percent in the risk corridors calculation, in recognition of the ongoing uncertainty and changes in the market in 2015; we expect to implement this change in a budget neutral way.

Exchange Establishment and QHP Issuer Standards: The rule proposes amending oversight standards regarding QHP decertification and CMPs. It also proposes that QHP issuers provide enrollees with an annual notice of coverage changes. This rule proposes a process for survey vendors to appeal an HHS decision not to approve its application to become an enrollee satisfaction survey (ESS) vendor, as well as standards for revoking HHS-approval of ESS vendors. Finally, it proposes standards for the ESS and quality rating system (QRS) related to the display of such information by Exchanges and the submission of validated data by QHP issuers.

We propose to align the start of annual employer election periods in all SHOPs for plan years beginning in 2015 with the start of open enrollment in the corresponding individual market Exchange for the 2015 benefit year and to eliminate the 30-day minimum time frames for the employer and employee annual election periods. We also propose to allow State departments of insurance to recommend that, in 2015, a SHOP not provide employers with the option of selecting a level of coverage as described in section 1302(d)(1) of the Affordable Care Act, and making all QHPs at that level of coverage available to their employees if making that option available would result in significant adverse selection in the State's small group market resulting in market disruptions that could not be addressed by the premium stabilization programs or single risk pool, or if there would be insufficient issuers of qualified health plans or qualified stand-alone dental plans to allow for meaningful choice among plans. We propose to allow the opportunity for a person appealing a determination of SHOP eligibility to withdraw an appeal by telephone, if the appeals entity is capable of accepting telephonic signatures.

Civil Money Penalties for False Information or Improper Use of Information: The proposed rule specifies the grounds for imposing civil money penalties on persons who provide false or fraudulent information to the Exchange and on persons who use or disclose information in violation of section 1411(g) of the Affordable Care Act. The grounds for imposing a penalty include: negligent failure to provide correct information, knowing and willful provision of false or fraudulent information, and knowing and willful use or disclosure of information in violation of section 1411(g). This section proposes the factors used to determine the amount of the CMP to be imposed against a person. The section also provides for the requirements for notices which must be provided to a

[3] FAQs about Affordable Care Act Implementation (Part XVIII) and Mental Health Parity Implementation, Q11 (January 9, 2014). Available at: *http://www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/aca_implementation_faqs18.html* and *http://www.dol.gov/ebsa/faqs/faq-aca18.html.*

[4] Amendments to the HIPAA opt-out provision (formerly section 2721(b)(2) of the Public Health Service Act) made by the Affordable Care Act (September 21, 2010). Available at: *http://www.cms.gov/CCIIO/Resources/Files/Downloads/opt_out_memo.pdf.*

person if HHS proposes to impose a CMP, and the processes a person may follow should the person wish to challenge HHS' determination that a CMP should be imposed, including a process pursuant to which a person may request a hearing before an administrative law judge. We also propose to amend current privacy and security regulations at 45 CFR 155.260 to reference the new CMP provisions associated with knowingly and willfully using or disclosing information in violation of section 1411(g) of the Affordable Care Act.

Civil Money Penalties for Consumer Assistance Entities: The proposed rule would provide that HHS may impose CMPs against Navigators, non-Navigator assistance personnel, certified application counselor designated organizations, and certified application counselors in FFEs, if these entities and/or individuals violate Federal requirements applicable to their activities.

Navigator, Non-Navigator Assistance Personnel, and Certified Application Counselor Program Standards: In this proposed rule, we propose to specify certain types of State laws applicable to Navigators, non-Navigator assistance personnel, and certified application counselors that HHS considers to conflict with or prevent the application of the provisions of title I of the Affordable Care Act within the meaning of section 1321(d) of the Affordable Care Act. We would also make several changes to update the standards applicable to these consumer assistance entities and individuals, such as prohibiting them from specified marketing or solicitation activities. We propose to require Navigators and non-Navigator assistance personnel to obtain authorization before accessing a consumer's personally identifiable information and to prohibit them from charging consumers for their services. We also propose to require that certified application counselors be recertified on at least an annual basis, and propose to prohibit certified application counselors and certified application counselor designated organizations from receiving consideration, directly or indirectly, from health insurance issuers or stop loss insurance issuers in connection with the enrollment of consumers in QHPs or non-QHPs. We further propose that, in specific circumstances, certified application counselor designated organizations can serve targeted populations without violating the broad non-discrimination requirement related to Exchange functions.

Indexing of Cost-Sharing Requirements: Under § 156.130(a), the annual limitation on cost sharing and the annual limitation on deductibles in the small group market for years after 2014 are to be indexed by the premium adjustment percentage. We established our methodology for calculating the premium adjustment percentage in the 2015 Payment Notice. In this rule, we propose calculating these limitations based on the premium adjustment percentage by rounding down to the nearest $50 increment.

Required Contribution Percentage: Under section 5000A of the Code, an applicable individual must maintain minimum essential coverage for each month, qualify for an exemption, or make a shared responsibility payment. An individual may qualify for an exemption from the shared responsibility payment if the amount that he or she would be required to pay towards minimum essential coverage (required contribution) exceeds a particular percentage (the required contribution percentage) of his or her household income. Under section 5000A of the Code, the required contribution percentage for 2014 is 8 percent, and for each plan year beginning in a calendar year after 2014, the percentage, as determined by the Secretary of Health and Human Services (the Secretary), that reflects the excess of the rate of premium growth between the preceding calendar year and 2013 over the rate of income growth for the same period. In this preamble to this proposed rule, we describe issues related to possible methodologies for determining the percentage reflecting the excess of the rate of premium growth over the rate of income growth for plan years after 2014.

Eligibility Appeals: This rule proposes to amend standards related to eligibility appeals provisions in subparts F and H of Part 155. To facilitate the efficient conclusion of an appeal at the request of the appellant, we propose to amend the withdrawal procedure to permit withdrawals made via telephonic signature.

Minimum Essential Coverage: On October 31, 2013, we published guidance indicating that certain types of foreign group health coverage are recognized as minimum essential coverage.[5] In this proposed rule, we propose amendments codifying the treatment of foreign group coverage as described in the October 31, 2013 guidance. We also clarify that entities other than plan sponsors (for example, issuers) can apply for their coverage to be recognized as minimum essential coverage, pursuant to the process outlined in 45 CFR 156.604 and guidance thereunder.

Medical Loss Ratio: The MLR program created pursuant to the Affordable Care Act generally requires issuers to rebate a portion of premiums if their MLR fails to meet the applicable MLR standard in a State and market for the applicable reporting year. An issuer's MLR is the ratio of claims plus quality improvement activities to premium revenue, with the premium adjusted by the amounts paid for taxes, licensing and regulatory fees, and the premium stabilization programs. On December 1, 2010, we published an interim final rule entitled ''Health Insurance Issuers Implementing Medical Loss Ratio (MLR) Requirements under the Patient Protection and Affordable Care Act'' (75 FR 74864), which established standards for the MLR program. Since then, we have made several revisions and technical corrections to those rules. In this proposed rule, we propose to modify the timeframe for which issuers can include their ICD–10 conversion costs in their MLR calculation. We also propose to modify the regulation to clarify how issuers would calculate MLRs and rebates in States that require the individual and small group markets to be merged. We note that the standards for ICD–10 conversion costs and merged markets would also apply to the risk corridors program. Further, we propose to modify the regulation to account for the special circumstances of the issuers affected by the CMS November 2013 transitional policy and the issuers impacted by systems challenges during the implementation of the Exchanges. We also propose to amend the requirements for distribution of *de minimis* rebates.

II. Background

A. Legislative Overview

The Patient Protection and Affordable Care Act (Pub. L. 111–148) was enacted on March 23, 2010. The Health Care and Education Reconciliation Act of 2010 (Pub. L. 111–152), which amended and revised several provisions of the Patient Protection and Affordable Care Act, was enacted on March 30, 2010. In this proposed rule, we refer to the two statutes collectively as the ''Affordable Care Act.''

The Affordable Care Act reorganizes, amends, and adds to the provisions of title XXVII of the PHS Act relating to group health plans and health insurance

[5] See CCIIO Sub-Regulatory Guidance: Process for Obtaining Recognition as Minimum Essential Coverage (October 31, 2013). Available at: *http://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/mec-guidance-10-31-2013.pdf.*

issuers in the group and individual markets.

Section 1201 of the Affordable Care Act added sections 2702 and 2703 of the PHS Act. Section 2702 of the PHS Act generally requires an issuer that offers health insurance coverage in the individual or group market in a State to offer coverage to and accept every individual or employer in the State that applies for such coverage. Section 2703 of the PHS Act generally requires an issuer to renew or continue in force coverage in the group or individual market at the option of the plan sponsor or the individual.

Prior to enactment of the Affordable Care Act, HIPAA amended the PHS Act to improve access to individual health insurance coverage for certain eligible individuals who previously had group coverage, and to guarantee the renewability of all coverage in the individual market. These reforms were added as sections 2741 through 2744 of the PHS Act.

HIPAA also added PHS Act provisions permitting sponsors of self-funded, non-Federal governmental plans to elect to exempt those plans from (''opt out of'') certain provisions of title XXVII of the PHS Act. This election was authorized under section 2721(b)(2) of the PHS Act, which is now designated as section 2722(a)(2) of the PHS Act by the Affordable Care Act.

Section 2718 of the PHS Act, as added by the Affordable Care Act, generally requires health insurance issuers to submit an annual MLR report to HHS and provide rebates to consumers if they do not achieve specified MLRs.

Sections 2722 and 2763 of the PHS Act, as implemented in 45 CFR 146.145(b) and 148.220, provide that the requirements of parts A and B of title XXVII of the PHS Act shall not apply to any individual coverage or any group health plan (or group health insurance coverage) in relation to its provision of excepted benefits. Excepted benefits are described in section 2791(c) of the PHS Act. One category of excepted benefits, called ''noncoordinated excepted benefits,'' includes coverage for only a specified disease or illness, and hospital indemnity or other fixed indemnity insurance. Benefits in this category are excepted only if they meet certain conditions specified in the statute and regulations.

Section 1302(c) of the Affordable Care Act establishes an annual limitation on cost sharing and an annual limitation on deductibles in the small group market for 2014, and provides that those limitations are to be increased for each year after 2014 by the percentage by which the average per capita premium for health insurance coverage in the United States for the preceding year exceeds the average per capita premium for 2013. Under section 1302(c), those limitations are to be rounded to the next lowest multiple of $50.

Section 1311(b) of the Affordable Care Act provides that each State has the opportunity to establish an Exchange that: (1) Facilitates the purchase of insurance coverage by qualified individuals through QHPs; (2) provides for the establishment of a SHOP designed to assist qualified employers in the enrollment of their qualified employees in QHPs; and (3) meets other requirements specified in the Affordable Care Act.

Section 1311(c)(3) of the Affordable Care Act requires the Secretary to develop a rating system to rate QHPs offered through an Exchange on the basis of quality and price. Section 1311(c)(4) of the Affordable Care Act directs the Secretary to establish an ESS system that would evaluate the level of enrollee satisfaction of members in QHPs offered through an Exchange, for each QHP with more than 500 enrollees in the previous year. Sections 1311(c)(3) and 1311(c)(4) of the Affordable Care Act further require an Exchange to provide information to individuals and employers from the rating and ESS systems on the Exchange's Web site. We have already promulgated regulations in 45 CFR 155.200(d) that direct Exchanges to oversee implementation of ESSs and ratings of health care quality and outcomes, and 45 CFR 156.200(b)(5) [6] that directs QHP issuers that participate in Exchanges to report health care quality and outcomes information and to implement an ESS consistent with the Affordable Care Act.

Sections 1311(d)(4)(K) and 1311(i) of the Affordable Care Act direct all Exchanges to establish a Navigator program.

Section 1321(a) of the Affordable Care Act provides broad authority for the Secretary to establish standards and regulations to implement the statutory requirements related to Exchanges, QHPs and other components of title I of the Affordable Care Act. Section 1321(a)(1) directs the Secretary to issue regulations that set standards for meeting the requirements of title I of the Affordable Care Act with respect to, among other things, the establishment and operation of Exchanges. Section 1321(a)(2) requires the Secretary to engage in consultation to ensure balanced representation among interested parties.

Section 1321 of the Affordable Care Act provides for State flexibility in the operation and enforcement of Exchanges and related requirements. Section 1321(d) provides that nothing in title I of the Affordable Care Act shall be construed to preempt any State law that does not prevent the application of title I of the Affordable Care Act. Section 1311(k) specifies that Exchanges may not establish rules that conflict with or prevent the application of regulations promulgated by the Secretary.

Section 1321(c)(1) requires the Secretary of HHS (referred to throughout this rule as the Secretary) to establish and operate an FFE within States that either: (1) Did not elect to establish an Exchange; or (2) as determined by the Secretary, did not have any required Exchange operational by January 1, 2014.

Section 1321(c)(2) of the Affordable Care Act provides that the provisions of section 2723(b) of the PHS Act [7] shall apply to the enforcement under section 1321(c)(1) of requirements of section 1321(a)(1), without regard to any limitation on the application of those provisions to group health plans. Section 2723(b) of the PHS Act authorizes the Secretary to impose CMPs as a means of enforcing the individual and group market reforms contained in Part A of title XXVII of the PHS Act when, in the Secretary's determination, a State fails to substantially enforce these provisions.

Section 1341 of the Affordable Care Act requires the establishment of a transitional reinsurance program in each State to help pay the cost of treating high-cost enrollees in the individual market from 2014 through 2016. Section 1342 of the Affordable Care Act directs the Secretary to establish a temporary risk corridors program that provides for the sharing in gains or losses resulting from inaccurate rate setting from 2014 through 2016 between the Federal government and certain participating health plans.

Section 1411(f)(1) of the Affordable Care Act provides that the Secretary, in consultation with the Secretary of the Treasury, the Secretary of Homeland Security, and the Commissioner of Social Security, shall establish procedures by which the Secretary or one of such other Federal officers hears and makes decisions with respect to

[6] Patient Protection and Affordable Care Act; Establishment of Exchanges and Qualified Health Plans; Exchange Standards for Employers; Final Rule, 77 FR 18310 (Mar. 27, 2012) (to be codified at 45 CFR parts 155, 156, & 157).

[7] Section 1321(c) of the Affordable Care Act erroneously cites to section 2736(b) of the PHS Act instead of 2723(b) of the PHS Act. This was clearly a typographical error, and we have interpreted section 1321(c) of the Affordable Care Act to incorporate section 2723(b) of the PHS Act.

appeals of any determination under subsection (e) and redetermines eligibility on a periodic basis in appropriate circumstances. Section 1411(f)(2) of the Affordable Care Act provides that the Secretary shall establish a separate appeals process for employers who are notified under section 1411(e)(4)(C) of the Affordable Care Act that the employer may be liable for a tax imposed by section 4980H of the Internal Revenue Code of 1986 (the Code) with respect to an employee because of a determination that the employer does not provide minimum essential coverage through an employer-sponsored plan or that the employer does provide that coverage but it is not affordable coverage with respect to an employee.

Section 1411(h) of the Affordable Care Act sets forth CMPs to which any person may be subject if that person provides inaccurate information as part of an Exchange application or improperly uses or discloses an applicant's information.

Section 1501(b) of the Affordable Care Act added section 5000A to the Code. That section, as amended by the TRICARE Affirmation Act of 2010 (Pub. L. 111–159, 124 Stat. 1123) and Public Law 111–173 (124 Stat. 1215), requires nonexempt individuals to either maintain minimum essential coverage or make a shared responsibility payment for each month beginning in 2014. It also describes categories of individuals who may qualify for an exemption from the individual shared responsibility payment. Section 1311(d)(4)(H) of the Affordable Care Act specifies that the Exchange will, subject to section 1411 of the Affordable Care Act, grant certifications of exemption from the individual shared responsibility payment specified in section 5000A of the Code. Standards relating to these provisions were established in IRS regulations titled, Shared Responsibility Payment for Not Maintaining Minimum Essential Coverage Final Rule published in the August 30, 2013 **Federal Register** (78 FR 53646) (IRS Minimum Essential Coverage Final Rule) and HHS regulations titled, Exchange Functions: Eligibility for Exemptions; Miscellaneous Minimum Essential Coverage Provisions Final Rule published in the July 1, 2013 **Federal Register** (78 FR 39494) (HHS Minimum Essential Coverage Final Rule).

B. Stakeholder Consultation and Input

HHS has consulted with stakeholders on policies related to the operation of Exchanges, including the SHOP and the premium stabilization programs. HHS has held a number of listening sessions with consumers, providers, employers, health plans, the actuarial community, and State representatives to gather public input. HHS consulted with stakeholders through regular meetings with the National Association of Insurance Commissioners (NAIC), regular contact with States through the Exchange Establishment grant and Exchange Blueprint approval processes, technical health care quality measurement experts, health care survey development experts, and meetings with Tribal leaders and representatives, health insurance issuers, trade groups, consumer advocates, employers, and other interested parties. In addition, HHS received public comment on various notices published in the **Federal Register** relating to health care quality in the Exchanges,[8] enrollee experience measures and domains,[9] and the quality rating system, which provided valuable feedback on quality reporting and quality rating requirements.[10] We considered all of the public input as we developed the policies in this proposed rule.

C. Structure of Proposed Rule

The regulations outlined in this proposed rule would be codified in 45 CFR parts 146, 147, 148, 153, 155, 156, and 158. Part 146 outlines the group health insurance market requirements of the PHS Act added by HIPAA and other laws, including guaranteed renewability standards and opt-out provisions for sponsors of self-funded, non-Federal governmental plans. Part 147 outlines health insurance reform requirements for the group and individual markets added by the Affordable Care Act, including standards related to guaranteed availability and guaranteed renewability of coverage. Part 148 outlines the individual health insurance market requirements of the PHS Act added by HIPAA and other laws, including standards related to guaranteed availability with respect to certain eligible individuals and guaranteed renewability for all individuals. Part 153 outlines standards related to reinsurance program and risk corridors programs. Part 155 outlines standards related to the operations and functions of an Exchange, including standards related to non-discrimination, accessibility, and enforcement remedies; standards applicable to the consumer assistance functions performed by Navigators, non-Navigator assistance personnel, and certified application counselors; standards related to eligibility appeals; standards related to exemptions; standards related to quality reporting; and standards related to SHOP. Part 156 outlines health insurance issuer responsibilities, including the methodology for calculating the annual limit on cost-sharing and deductibles for years after 2014; minimum certification standards; standards for recognition of certain types of foreign group health coverage as minimum essential coverage; quality standards for QHPs; and other QHP issuer responsibilities. Part 158 outlines standards related to the medical loss ratio program, including standards related to treatment of ICD–10 conversion costs, standards related to adjustments for issuers affected by the November 2013 CMS transitional policy and issuers that incurred costs due to the technical problems during the implementation of the Exchanges, standards related to MLR reporting and rebate calculations in States with merged individual and small group markets, and standards related to distribution of *de minimis* rebates.

III. Provisions of the Proposed Rule

A. Part 146—Requirements for the Group Health Insurance Market

1. HIPAA Opt-Out Provisions for Plan Sponsors of Self-Funded, Non-Federal Governmental Plans (§ 146.180)

Prior to enactment of the Affordable Care Act, sponsors of self-funded, non-Federal governmental plans were permitted to elect to exempt those plans from (''opt out of'') certain provisions of title XXVII of the PHS Act. This election was authorized under section 2721(b)(2) of the PHS Act. Sponsors of those plans could elect to opt out of all or any of the following title XXVII requirement categories:

1. Limitations on preexisting condition exclusion periods under section 2701 of the PHS Act (redesignated as section 2704 by the Affordable Care Act).

2. Requirements for special enrollment periods under section 2701 of the PHS Act (redesignated as section 2704 by the Affordable Care Act).

3. Prohibitions against discriminating against individual participants and beneficiaries based on health status (but

[8] Request for Information Regarding Health Care Quality for Exchanges: *http://www.gpo.gov/fdsys/pkg/FR-2012-11-27/pdf/2012-28473.pdf*.

[9] Request for Domains, Instruments, and Measures for Development of a Standardized Instrument for Use in Public Reporting of Enrollee Satisfaction With Their Qualified Health Plan and Exchange: *http://www.gpo.gov/fdsys/pkg/FR-2012-06-21/html/2012-15162.htm*.

[10] Patient Protection and Affordable Care Act; Exchanges and Qualified Health Plans, Quality Rating System (QRS) Framework, Measures and Methodology; Notice with Comment, 78 FR 69418 (Nov. 19, 2013).

not including provisions added by the Genetic Information Nondiscrimination Act of 2008) under 2702 of the PHS Act (redesignated as section 2705 by the Affordable Care Act).

4. Standards relating to benefits for newborns and mothers under section 2704 of the PHS Act (redesignated as section 2725 by the Affordable Care Act).

5. Parity in the application of certain limits to mental health and substance use disorder benefits (including requirements of the Mental Health Parity and Addiction Equity Act of 2008) under section 2705 of the PHS Act (redesignated as section 2726 by the Affordable Care Act).

6. Required coverage for reconstructive surgery following mastectomies under section 2706 of the PHS Act (redesignated as section 2727 of the PHS Act).

7. Coverage of dependent students on a medically necessary leave of absence under section 2707 of the PHS Act (redesignated as section 2728 by the Affordable Care Act).

The Affordable Care Act made a number of changes, with the result that sponsors of self-funded, non-Federal governmental plans can no longer opt out of as many requirements of title XXVII. First, PHS Act section 2721 was redesignated as section 2722. The new section 2722(a)(2) no longer allows a sponsor of a self-funded, non-Federal governmental plan to exempt that plan from the first 3 requirement categories listed above, but may continue to exempt the plan from requirement categories 4 through 7.

In response to the Affordable Care Act amendments, HHS issued guidance on September 21, 2010 indicating that, for plan years beginning on or after September 23, 2010, plan sponsors of non-collectively bargained plans can only elect to be exempt from provisions 4–7 and that provisions 1–3 are no longer available for exemption.[11] Group health plans maintained pursuant to a collective bargaining agreement that was ratified before March 23, 2010, and that has been exempted from any of the first 3 requirement categories listed above, would not have to come into compliance with those provisions until the commencement of the first plan year following the expiration of the last plan year governed by the collective bargaining agreement. Because of the timing of the guidance, HHS elected not to take any enforcement actions with respect to opt-out elections for plan years beginning prior to April 1, 2011 on the provisions 1–3.

We propose to revise the provisions of § 146.180 to reflect the amendments of the Affordable Care Act and the September 21, 2010 guidance. While the proposed rule restates the current rule in the procedures for filing an opt-out election with CMS, the following revisions are being proposed primarily to reflect the Affordable Care Act amendments: identification of PHS Act provisions subject to the opt-out election as noted above; deletion of references to the notice of creditable coverage requirement since that requirement has been superseded; and the deletion of examples referencing provisions that are no longer available for opt-out elections.

Additionally, we propose to replace the address for submitting the election documents with language indicating that opt-out elections must be submitted in an electronic format as specified by the Secretary in guidance. We believe that electronic submissions will be easier and more efficient for both the plan sponsors and for CMS to track the submissions. We welcome comments on improving the election process in order for elections to be submitted electronically. Until the issuance of final regulations, elections will be accepted via U.S. Mail or facsimile. The current address for the submission, as noted on the CMS/CCIIO Web site, is Centers for Medicare & Medicaid Services (CMS), Center for Consumer Information and Insurance Oversight (CCIIO), Attn: HIPAA Opt-Out, 200 Independence Avenue SW., Room 733H–02, Washington, DC 20201. Elections can also be submitted via facsimile at 301–492–4462. Questions regarding the opt-out process can be submitted to CMS at *HIPAAOptOut@cms.hhs.gov*. CMS makes publicly available on its Web site a list of self-funded, non-Federal governmental plans that have submitted an opt-out election and the PHS Act provisions subject to the election.[12]

The proposed rule would clarify that plan sponsors of self-funded, non-Federal governmental plans offering health coverage subject to a collectively bargained agreement that was ratified before March 23, 2010 can continue to be exempt from any of the 7 original provisions for which a timely election was filed with CMS until the expiration of the last plan year subject to the agreement.

These proposed amendments would generally become applicable upon the effective date of the final rule. Comments are welcome on the proposed revisions and on any aspect of the proposed rule, including the provisions unchanged from the current regulation.

Finally, we note that some plan administrators have been submitting one opt-out election to CMS for multiple group health plans. While this is permitted for plans subject to the same collective bargaining agreement, single elections have been received for multiple plans not under a collective bargaining agreement. The current regulations expressly require a separate election for each group health plan not subject to collective bargaining. We request comments on whether the regulation should be modified to allow a single opt-out submission for multiple group health plans not subject to collective bargaining. We are also considering requiring, as part of the opt-out election document, that sponsors of plans subject to a collective bargaining agreement be required to list all plans subject to the agreement. We welcome comments on this proposal.

B. Part 147—Health Insurance Reform Requirements for the Group and Individual Health Insurance Markets

1. Guaranteed Availability and Guaranteed Renewability of Coverage (§§ 147.104 and 147.106)

a. No Effect on Other Laws

Section 2702 of the PHS Act generally requires a health insurance issuer that offers health insurance coverage in the individual or group market in a State to offer coverage to and accept every individual or employer in the State that applies for coverage. Section 2703 of the PHS Act generally requires a health insurance issuer to renew or continue in force[13] coverage in the group or individual market at the option of the plan sponsor or the individual. These sections are implemented by regulations at 45 CFR 147.104 and 147.106, respectively. They apply to health plans offered both through and outside of an Exchange.

There are several exceptions to these requirements. In addition to statutorily specified exceptions set forth in sections 2702 and 2703 of the PHS Act, other Federal laws restrict the products that are available to certain individuals. For example, section 1882(d) of the Social

[11] Amendments to the HIPAA opt-out provision (formerly section 2721(b)(2) of the Public Health Service Act) made by the Affordable Care Act (September 21, 2010). Available at: *http://www.cms.gov/CCIIO/Resources/Files/Downloads/opt_out_memo.pdf*.

[12] *See* List of HIPAA Opt-Out Elections for Self-Funded Non-Federal Governmental Plans. Available at: *http://www.cms.gov/CCIIO/Resources/Files/Downloads/hipaa-nfgp-list-7-9-2013.pdf*.

[13] ''Continue in force'' means that the issuer maintains the same policy form that the plan sponsor or individual purchased.

Security Act establishes an anti-duplication provision that makes it unlawful for an issuer to knowingly sell to an individual entitled to benefits under Medicare part A or enrolled under Medicare part B an individual health insurance policy that duplicates Medicare benefits; sections 1311(d)(2) and 1312(f) of the Affordable Care Act limit access of an individual market QHP offered through an Exchange to citizens and lawful residents; [14] and section 1302(e) of the Affordable Care Act provides that only individuals under age 30, and individuals who are certified as exempt from the requirement to maintain minimum essential coverage based on lack of affordable coverage or hardship, are eligible to enroll in catastrophic plans. Consistent with the canons of statutory construction, which provide that specific statutory language ordinarily trumps conflicting general language,[15] the guaranteed availability and renewability requirements are subordinated to these and other Federal law requirements limiting access to coverage. As a result, issuers of coverage subject to specific Federal statutes that conflict with PHS Act sections 2702 and 2703 could deny enrollment or reenrollment in coverage where doing otherwise is contrary to law.

We propose to amend the guaranteed availability and renewability regulations to codify this interpretation in regulation text. We propose to add new paragraph (h) in § 147.104 providing that nothing in the guaranteed availability requirements should be construed to require an issuer to offer coverage where other Federal laws operate to prohibit the issuance of such coverage. Similarly, we propose to redesignate paragraphs (g) and (h) as (h) and (i), and add new paragraph (g) in § 147.106 providing that nothing in the guaranteed renewability requirements should be construed to require an issuer to renew or continue in force coverage for which continued eligibility would otherwise be prohibited under applicable Federal law. We believe that these regulatory changes are consistent with current market practice and will cause no disruption in the health insurance market. We solicit comment on these and other clarifications that may be helpful. We note that only Federal laws, not State laws, can create exceptions to the Federal guaranteed availability and renewability requirements.

We also note that, due to a formatting error in the interim final rule with comment period titled, Patient Protection and Affordable Care Act; Maximizing January 1, 2014 Coverage Opportunities (78 FR 76212), the regulation text at § 147.104(b)(1)(i) contains a duplicate reference to the SHOP regulation at § 155.725. We propose to correct the duplicate reference in this proposed rule, and to make other minor regulatory revisions in this paragraph for clarity.

b. Product Withdrawal and Uniform Modification of Coverage Exceptions to Guaranteed Renewability Requirements

The PHS Act provisions enacted by HIPAA and the Affordable Care Act require health insurance issuers to guarantee the renewal of coverage unless at least one of several listed exceptions applies.[16] One exception to the guaranteed renewability requirements permits an issuer to cease offering a particular product in a market and to discontinuing existing blocks of business with respect to that product (product withdrawal). This may be done, in accordance with State law, provided certain other requirements are met. The PHS Act also provides for issuers, only at the time of coverage renewal, to modify the health insurance coverage for a product offered to a group health plan or an individual in the individual market, if the modification is consistent with State law and effective uniformly for all group health plans or individuals with that product (uniform modification of coverage). The law contemplates that a uniform modification does not alter a policyholder's right to renewability, and that such modifications do not in effect result in the termination of the existing policy under the product withdrawal rules.

In this proposed rule, we propose standards defining whether certain modifications to a policy would constitute ''uniform modifications'' within the meaning of the PHS Act, or would constitute the withdrawal of the existing product and the creation of a new product. These provisions would be codified in each of the guaranteed renewability regulations at 45 CFR 146.152, 147.106, and 148.122, and would therefore apply to both grandfathered and non-grandfathered coverage in the group and individual markets.[17]

Definition of Uniform Modification of Coverage

We propose that a modification made solely pursuant to applicable Federal or State law would be considered a modification of coverage rather than a product withdrawal. These modifications could include changes required to comply with Affordable Care Act standards (such as elimination of a prohibited annual limit) and changes permitted based on updated standards (such as increasing an annual limitation on cost sharing based on the annual increase in the limit permitted as a result of the application of the premium adjustment percentage). Additionally, we propose that if an issuer makes changes to the health insurance coverage for a product that are not pursuant to applicable Federal or State law, the modifications would constitute a uniform modification of coverage for purposes of the guaranteed renewability requirements under the PHS Act if the product that has been modified meets all of the following criteria:

- The product is offered by the same health insurance issuer (within the meaning of section 2791(b)(2) of the PHS Act);
- The product is offered as the same product type (e.g., preferred provider organization (PPO) or health maintenance organization (HMO));
- The product covers a majority of the same counties in its service area;

[14] Although the Affordable Care Act creates a limited exception to the guaranteed availability requirements for qualified individuals purchasing coverage through an Exchange, if an individual declines or is ineligible to enroll through an Exchange and seeks enrollment directly with the issuer, issuers of coverage subject to the guaranteed availability requirements of section 2702 of the PHS Act must accept every individual in the State that applies for such coverage unless an exception applies.

[15] *See Fourco Glass Co.* v. *Transmirra Products Corp.,* 353 U.S. 222, 228 (1957) (citations omitted) (providing that, ''However inclusive may be the general language of a statute, it will not be held to apply to a matter specifically dealt with in another part of the same enactment.'' The same principle is used to resolve conflict between two statutes. *See* also, e.g., *United States* v. *Estate of Romani,* 523 U.S. 517, 532 (1998) (later, more specific statute governs). *See* also *Morton* v. *Mancari*, 417 U.S. 535, 550–51 (1974) (a general statute will not be held to have repealed by implication a more specific one unless there is ''clear intention otherwise'').

[16] *See* PHS Act sections 2703 (applicable to non-grandfathered health plans in the group and individual markets), section 2712 as codified prior to enactment of the Affordable Care Act (applicable to grandfathered health plans in the group market), and section 2742 (applicable to both grandfathered and non-grandfathered health plans in the individual market), as implemented in 45 CFR 146.152, 147.106, and 148.122.

[17] While the Affordable Care Act amended section 2703 of the PHS Act to generally apply to health insurance issuers in the group and individual markets, the uniform modification of coverage exception in section 2703(d) of the PHS Act addresses only the large and small group markets. Section 2742 of the PHS Act and the regulations at § 148.122(g) contain parallel provisions allowing for the uniform modification of coverage in the individual market. For ease of reference and to facilitate compliance, we propose to add a provision in § 147.106(e)(1) reiterating the uniform modification of coverage exception for non-grandfathered coverage in the individual market.

• The product has the same cost-sharing structure, except for variation in cost sharing solely related to changes in cost and utilization of medical care, or to maintain the same level of coverage described in sections 1302(d) and (e) of the Affordable Care Act (e.g., bronze, silver, gold, platinum or catastrophic); and

• The product provides the same covered benefits, except for changes in benefits that cumulatively impact the rate for the product by no more than 2 percent (not including changes required by applicable Federal or State law).

Under this proposal, if an issuer modifies the coverage for a product and the resulting product is consistent with the above criteria, the issuer would be considered under the PHS Act to have made a uniform modification of coverage and therefore not to have withdrawn the product from that market. Conversely, if an issuer modifies the coverage for a product in a manner that results in a product that differs from the above criteria, the issuer would be considered to have changed the coverage to such extent that the issuer has withdrawn the existing product and created a new product.[18]

These criteria, if finalized, would establish minimum Federal standards determining whether coverage modifications constitute the continuance of an existing product in a market within a State for products offered both through and outside of an Exchange. We believe these proposed standards will minimize unnecessary terminations of coverage, ensuring predictability and continuity for consumers, while reasonably providing issuers the flexibility to make necessary adjustments to coverage.

We recognize that some States may have different definitions of what changes to a health insurance product constitute modifications and what changes constitute withdrawals and re-filings of new products. The definitions proposed here would preempt any conflicting State definitions. We acknowledge that the guaranteed renewability sections of the PHS Act provide that a uniform modification of coverage must, among other things, be ''consistent with State law.'' We interpret this statutory language as governing the extent or type of modifications that may legally be made under State law. As discussed in the preamble to the final rule published on February 27, 2013 under section 2703 of the PHS Act (78 FR 13419), State laws that prevent issuers from uniformly modifying coverage to comply with Federal law requirements would, in effect, prevent the application of such requirements and therefore be preempted.[19] Accordingly, under the approach we are proposing, States would have the flexibility to apply additional criteria that broaden the scope of what would be considered a uniform modification, but not narrow its scope.

We request comment on all aspects of this proposal.

Standard Consumer Notices When Discontinuing or Renewing a Product in the Group or Individual Market

To reduce confusion and ensure consumers receive clear, accurate, and consistent information about their coverage options, we are also proposing standard notice requirements when issuers discontinue or renew coverage in the group and individual markets.

First, under the current regulations, issuers electing to discontinue offering a particular product in a market must provide to each plan sponsor or individual provided that product (and to all participants and beneficiaries covered under such coverage) at least 90 calendar days' notice of the discontinuation in writing. We propose that, to satisfy this requirement, the issuer must provide notice ''in a form and manner specified by the Secretary.''

Second, we propose to establish a new notice requirement when issuers provide the option to renew coverage, including a renewal of coverage with modifications. We propose the issuer in this situation must provide written notice of the renewal to each plan sponsor in the small or large group market and to each individual policyholder in the individual market (as applicable). We propose this notice must also be provided in a form and manner specified by the Secretary.

We request comment on these proposals. Concurrently with the issuance of this proposed rule, we are publishing four draft notices in guidance that would be required to be used when issuers elect to discontinue or renew a product, consistent with the above discussion.[20] We solicit comments on the draft notices as described in the guidance.

Rate Review

Section 2794 of the PHS Act, and regulations at 45 CFR Part 154, establish a process whereby CMS or the applicable State will review rate increases of health insurance coverage that meet or exceed specified thresholds to determine if the rate increases are unreasonable. It has come to our attention, however, that some issuers may attempt to avoid review of rate increases by withdrawing a product(s) offered in the individual or small group market in a State and re-filing the product(s) as a ''new'' product(s) the following year. Under § 154.102, a ''rate increase'' is defined as ''any increase of the rates for a specific product offered in the individual or small group market,'' and a ''product'' is defined as ''a package of health insurance coverage benefits with a discrete set of rating and pricing methodologies that a health insurance issuer offers in a State.''

CMS intends to apply the criteria outlined above regarding product discontinuation and renewal to determine whether the rate filing is subject to review under 45 CFR Part 154. Specifically, if an issuer withdraws a product in a market in a State and, within a 12-month period, reintroduces a product in that market with modifications of the discontinued product that do not differ from the above criteria, we would consider the issuer to be continuing to offer the same ''product'' within the meaning of that term under § 154.102. As such, the rate filing for the product would be subject to the annual review of rate increases of health insurance coverage should it meet or exceed the specified thresholds to determine if the rate increase is unreasonable. CMS will consider compliance with the proposed criteria to constitute compliance with PHS Act section 2794 until this rulemaking is finalized.

We request comment on whether this clarification, or a cross-reference to the proposed definition of a uniform modification of coverage in § 147.106 of this proposed rule, should be added to Part 154.

C. Part 148—Requirements for the Individual Health Insurance Market

1. Conforming Changes to Individual Market Regulations (§§ 148.101 through 148.128)

The Health Insurance Portability and Accountability Act of 1996 (HIPAA),

[18] Whether an issuer is considered to offer the same product for purposes of this proposal is unrelated to and would not determine whether a plan maintains status as a grandfathered health plan under section 1251 of the Affordable Care Act and its implementing regulations. 26 CFR 54.9815–1251T, 29 CFR 2590.715–1251, and 45 CFR 147.140.

[19] Patient Protection and Affordable Care Act; Health Insurance Market Rules; Rate Review, 78 FR 13406 (February 27, 2013).

[20] Standard Notices When Discontinuing or Renewing a Particular Product in the Group or Individual Market (March 14, 2014). Available at: *http://www.cms.gov/CCIIO/Resources/Files/Downloads/draft-notice-renewal-discontinuation-bulletin-3-14-2014.pdf.*

Public Law 104–191, was enacted in 1996 to provide for, among other things, improved portability and continuity of coverage in both the group and individual health insurance markets. Section 111 of HIPAA added sections 2741 through 2744 of the PHS Act to improve availability and renewability in the individual market. HIPAA also added provisions of the Code, the Employee Retirement Income Security Act of 1974 (ERISA), and the PHS Act governing the group health insurance market and group health plan coverage provided in connection with employment. These provisions permitted limited exclusions of coverage under certain circumstances based on preexisting conditions.

The individual health insurance market provisions of HIPAA are implemented in 45 CFR Part 148. These provisions guarantee the availability of individual health insurance coverage without preexisting condition exclusions for certain eligible individuals who lose group health insurance coverage; require issuance of certificates of creditable coverage; guarantee the renewability of individual health insurance coverage for all individuals; and set forth procedures for States that choose to implement an alternative mechanism under State law with respect to guaranteed availability for eligible individuals.

The Affordable Care Act added a new section 2704 of the PHS Act, which renumbered and amended the HIPAA requirements relating to preexisting condition exclusions.[21] In general, the new PHS Act section 2704 provides that a group health plan and a health insurance issuer offering group or individual health insurance coverage may not impose any preexisting condition exclusions. Section 2704 and the regulations under that section are generally effective for plan years (in the individual market, policy years) beginning on or after January 1, 2014, but for enrollees under the age of 19, the prohibition became effective for plan years (in the individual market, policy years) beginning on or after September 23, 2010.[22]

This proposed rule would make conforming amendments to the individual market provisions contained in Part 148 by removing provisions concerning preexisting condition exclusions that are superseded by new section 2704 of the PHS Act. These amendments would generally become applicable upon the effective date of the final rule. However, the proposed amendment to eliminate the requirement to issue certificates of creditable coverage is proposed to apply December 31, 2014, so that individuals needing to offset a preexisting condition exclusion under a group health plan that will become subject to the prohibition on preexisting condition exclusions starting with a plan year beginning on December 31, 2014, would still have access to the certificate for proof of coverage until that time. These proposed amendments are consistent with rulemaking amending the group market regulations under HIPAA[23] and with previously released guidance addressing the maintenance of State alternative mechanisms.[24]

We solicit comment on this proposal.

2. Fixed Indemnity Insurance in the Individual Health Insurance Market (§ 148.220)

Pursuant to PHS Act sections 2722(c)(2), 2763(b) and 2791(c)(3)(B), insurance that pays a fixed amount under specified conditions without regard to other insurance (''fixed indemnity insurance'') is considered to be an excepted benefit, exempt from many of the provisions of title XXVII of the PHS Act for the group and individual markets, if it meets all of the following conditions: (1) The benefits are be provided under a separate policy, certificate or contract of insurance; (2) there is no coordination between the provision of such benefits and any exclusion of benefits under any group health plan maintained by the same plan sponsor; and (3) such benefits are paid with respect to an event without regard to whether benefits are provided with respect to such event under any group health plan maintained by the same plan sponsor.

These statutory requirements are reflected in regulations at 45 CFR 146.145(b)(4) and 148.220(b)(3). In addition, under § 146.145(b)(4), incorporated through § 148.220(b)(3), benefits of fixed indemnity insurance in the group and individual markets must be paid on a fixed amount basis without regard to the cost of the item or service and can only be paid on a per-period basis as opposed to on a per-service basis in order to be treated as an excepted benefit.

The primary reason fixed indemnity insurance is considered to be an excepted benefit if it meets the statutory and regulatory criteria is that its primary purpose is not to provide major medical coverage but to provide a cash-replacement benefit for those individuals with other health coverage. Since the issuance of the regulations, however, various situations have come to the attention of HHS, the Department of Labor, and the Department of the Treasury (the Departments) where a health insurance policy is advertised as fixed indemnity coverage but pays a fixed amount based not on a period of time, but if a particular service is received. For example, the fixed indemnity coverage pays a fixed $50 per visit for doctors' visits, or $100 for a day of hospitalization, different fixed dollar amounts for other various surgical procedures, and/or a fixed $15 per prescription without regard to cost. In all cases, these fixed amounts are paid under these policies without regard to costs, and without regard to other insurance payments that may cover the same services. In such circumstances, the fixed payments for doctors' visits, surgery, and prescription drugs are not made not on a per-period basis, but instead based on the type of procedure or item, such as the surgery or doctor visit actually performed or the drug prescribed, and the amount of payment varies widely based on the type of surgery or the cost of the drug. Because these payments are not based on a ''fixed dollar amount per day (or per other period),'' such a policy is not an excepted benefit under the current regulations.

The Departments issued a frequently asked question (FAQ) on January 24, 2013 affirming that under the current regulations, for fixed indemnity insurance to be an excepted benefit, payment based on an event must be paid on a per-period basis as opposed to on a per-service basis.[25] While the FAQ only addressed fixed indemnity insurance sold in the group health

[21] The Affordable Care Act adds section 715(a)(1) of ERISA and section 9815(a)(1) of the Code to incorporate the provisions of part A of title XXVII of the PHS Act, including section 2704 of the PHS Act, into ERISA and the Code, and to make them applicable to group health plans and health insurance issuers providing health insurance coverage in connection with group health plans.

[22] PHS Act section 2704 applies to grandfathered and non-grandfathered group health plans and group health insurance coverage, and non-grandfathered individual health insurance coverage. It does not apply to grandfathered individual health insurance coverage. For more information on grandfathered health plans, *see* section 1251 of the Affordable Care Act and its implementing regulations at 26 CFR 54.9815–1251T, 29 CFR 2590.715–1251, and 45 CFR 147.140.

[23] *See* Ninety-Day Waiting Period Limitation and Technical Amendments to Certain Health Coverage Requirements Under the Affordable Care Act, 78 FR 10296 (February 24, 2014).

[24] *See* Questions and Answers Related to Health Insurance Market Rules, Q2. Available at: *http://www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/qa_hmr.html.*

[25] *See* FAQs about Affordable Care Act Implementation (Part XI), Q7, available at *http://www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/aca_implementation_faqs11.html* and *http://www.dol.gov/ebsa/faqs/faq-aca11.html.*

insurance market, the same analysis also applies to fixed indemnity insurance sold in the individual health insurance market, as noted above.

Since the issuance of the January 24, 2013 FAQ, however, stakeholders have expressed concerns over the distinction made under the current regulations between payment on a per-period basis (which is permitted) and payment on a per-service basis (which is not permitted). State insurance regulators indicated that they have for years been approving policies as fixed indemnity insurance that pay on a per-service basis and treating such coverage as an excepted benefit. In an August 27, 2013 letter to the Secretaries of the Departments on behalf of the National Association of Insurance Commissioners (NAIC), it was stated that ''state regulators believe hospital and other fixed indemnity coverage with variable fixed amounts based on service types could provide important options for consumers as supplemental coverage. Consumers who purchase major medical coverage that meets the definition of 'minimum essential coverage' may still want to buy fixed indemnity coverage to help meet out-of-pocket medical and other costs.'' Industry groups representing health insurance issuers have also expressed similar concerns.

Based on the feedback from stakeholders and the fact that, starting in 2014, most individuals are required to have minimum essential coverage in order to satisfy the individual shared responsibility requirement under section 5000A of the Code, CMS agrees that it is appropriate to revise the current regulatory criteria for individual market fixed indemnity coverage to be treated as an excepted benefit by (1) eliminating the current requirement that payment be made on a per-period basis and not on a per-service basis, and (2) among other things, imposing a new requirement that fixed indemnity insurance be sold only as secondary to other health coverage that meets the definition of minimum essential coverage.[26]

On January 9, 2014, the Departments published an FAQ stating that, ''HHS intends to propose amendments to 45 CFR 148.220(b)(3) that would allow fixed indemnity coverage sold in the individual health insurance market to be considered to be an excepted benefit if it meets the following conditions: (1) It is sold only to individuals who have other health coverage that is minimum essential coverage within the meaning of section 5000A(f) of the Code; (2) there is no coordination between the provision of benefits and an exclusion of benefits under any other health coverage; (3) the benefits are paid in a fixed dollar amount regardless of the amount of expenses incurred and without regard to the amount of benefits provided with respect to an event or service under any other health coverage; and (4) a notice is displayed prominently in the plan materials informing policyholders that the coverage does not meet the definition of minimum essential coverage and will not satisfy the individual responsibility requirements of section 5000A of the Code.'' [27] The FAQ further provided that, ''Until HHS finalizes this rulemaking related to these proposed amendments, HHS will treat fixed indemnity coverage in the individual market as excepted benefits for enforcement purposes if it meets the conditions above in States where HHS has direct enforcement authority. For States with primary enforcement authority, HHS encourages those States to also treat this coverage as an excepted benefit and will not consider that a State is not substantially enforcing the individual market requirements merely because it does so.''

Consistent with the January 9, 2014 FAQ, we are proposing the following revised criteria for fixed indemnity insurance to be treated as an excepted benefit in the individual health insurance market: (1) The benefits are provided only to individuals who have other health coverage that is minimum essential coverage within the meaning of section 5000A(f) of the Code; (2) there is no coordination between the provision of benefits and an exclusion of benefits under any other health coverage; (3) the benefits are paid in a fixed dollar amount per day of hospitalization or illness or per service (for example, $100/day or $50/visit) regardless of the amount of expenses incurred and without regard to the amount of benefits provided with respect to the event or service under any other health coverage; and (4) a notice is displayed prominently in the plan materials in at least 14 point type that has the following language: ''THIS IS A SUPPLEMENT TO HEALTH INSURANCE AND IS NOT A SUBSTITUTE FOR MAJOR MEDICAL COVERAGE. LACK OF MAJOR MEDICAL COVERAGE (OR OTHER MINIMUM ESSENTIAL COVERAGE) MAY RESULT IN AN ADDITIONAL PAYMENT WITH YOUR TAXES.''

CMS is aware of at least one State law that requires fixed indemnity insurance to be sold as secondary to major medical insurance in order to be treated as an excepted benefit. We welcome comments on this approach including the language in the required notice. We also solicit comments on whether the requirement for individuals to have other minimum essential coverage in order to be sold fixed indemnity insurance is sufficient protection, especially given the fact that a group health plan that provides minimum benefits can be minimum essential coverage. For example, we solicit comment on whether to require that fixed indemnity insurance must only be sold to individuals with other health coverage that meets the EHB requirements. To meet the standard that fixed indemnity insurance must be sold on a secondary basis, an issuer of fixed indemnity insurance would have to be reasonably assured that an individual has obtained other health coverage that is minimum essential coverage. We seek comments on the extent of verification issuers should require from applicants to be reasonably assured that they have minimum essential coverage, including whether an attestation included in the application is sufficient.

The current regulation requires fixed indemnity insurance to be sold under a separate policy, certificate or contract of insurance but does not require that it be provided by an issuer other than the issuer providing the major medical coverage to the enrollees of the fixed indemnity insurance. The Departments previously released guidance establishing a safe harbor under which supplemental health insurance coverage will be considered to be an excepted benefit.[28] In the guidance, one of the criteria for the safe harbor is that the supplemental coverage has to be issued by an entity that does not provide the primary coverage under the plan in

[26] Fixed indemnity plans paying fixed amounts per service that meet these requirements to be excepted benefits do not qualify as permitted insurance that can be provided in addition to a High Deductible Health plan to an eligible individual under section 223(c)(3) of the Code. The statutory language for permitted hospitalization insurance specifically refers to ''insurance paying a fixed amount per day (or other period) of hospitalization'' rather than ''hospital indemnity or other fixed indemnity insurance.''

[27] FAQs about Affordable Care Act Implementation (Part XVIII) and Mental Health Parity Implementation, Q11 (January 9, 2014). Available at: *http://www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/aca_implementation_faqs18.html* and *http://www.dol.gov/ebsa/faqs/faq-aca18.html.*

[28] *See* CMS Insurance Standards Bulletin 08–01 (available at *http://www.cms.gov/CCIIO/Resources/Files/Downloads/hipaa_08_01_508.pdf*); the Department of Labor's Employee Benefits Security Administration's Field Assistance Bulletin No. 2007–04 (available at *http://www.dol.gov/ebsa/pdf/fab2007-4.pdf*); and Internal Revenue Service Notice 2008–23 (available at *http://www.irs.gov/irb/2008-07_IRB/ar09.html*).

order for the supplemental coverage to be an excepted benefit. This prevents an issuer from carving out certain benefits from its major medical coverage and packaging those benefits with the major medical coverage as a supplemental excepted benefit. We are considering adding the same protection for fixed indemnity insurance sold in the individual market and welcome comments on this approach.

This proposal only addresses fixed indemnity insurance sold in the individual market. For fixed indemnity insurance sold in the group health insurance market, see the FAQ published by the Departments on January 9, 2014.

We believe that most fixed indemnity products in the individual market today will largely satisfy these criteria and we welcome comment on how this proposal would affect existing market arrangements. If these proposals are finalized, they would apply for policy years beginning on or after January 1, 2015. We welcome comments on whether this would provide a sufficient transition period. We also solicit comments on whether the existing regulatory criteria for fixed indemnity insurance to be an excepted benefit (as interpreted in our January 24, 2013 FAQ) should instead remain in place on a permanent basis or at least on a temporary basis to ensure a sufficient transition that avoids market disruption.

D. Part 153—Standards Related to Reinsurance, Risk Corridors, and Risk Adjustment under the Affordable Care Act

1. Provisions and Parameters for the Transitional Reinsurance Program (§ 153.405)

The Affordable Care Act directs that a transitional reinsurance program be established in each State to help stabilize premiums for coverage in the individual market from 2014 through 2016. In the 2014 Payment Notice and the 2015 Payment Notice, we expanded on the standards set forth in subparts C and E of the Premium Stabilization Rule, and established the reinsurance payment parameters and uniform reinsurance contribution rate for the 2014 and 2015 benefit years. In this proposed rule, we solicit feedback on a potential revision to the allocation of reinsurance contributions collected for all benefit years such that reinsurance contributions collected are allocated first to the reinsurance payment pool and administrative expenses and second to payments to the U.S. Treasury.

Section 1341(b)(3)(B)(iii) of the Affordable Care Act specifies the total contribution amounts to be collected from contributing entities for the reinsurance payment pool as $10 billion for 2014, $6 billion for 2015, and $4 billion for 2016. Sections 1341(b)(3)(B)(iv) and 1341(b)(4) of the Affordable Care Act direct the collection of funds for contribution to the U.S. Treasury in the amounts of $2 billion for 2014, $2 billion for 2015, and $1 billion for 2016. Section 1341(b)(3)(B)(ii) of the Affordable Care Act allows for the collection of additional amounts for administrative expenses. Taken together, these three components make up the total dollar amount to be collected from contributing entities for each of the three years of the reinsurance program under a national per capita contribution rate. For 2014, to collect $12.02 billion, HHS set a per capita contribution rate of $63; for 2015, to collect $8.025 billion, HHS set a per capita contribution rate of $44.

In the 2014 and 2015 Payment Notices, we provided that if total contributions collected for 2014 and 2015 exceed $12.02 billion and $8.025 billion, respectively, we would allocate $2 billion to the U.S. Treasury, $20.3 or $25.4 million, as applicable, to administrative expenses, and would allocate all remaining contributions for reinsurance payments, thus prioritizing excess contributions towards reinsurance contributions. Due to the uncertainty in our estimates of reinsurance contributions to be collected, and to help assure that the reinsurance payment pool is sufficient to provide the premium stabilization benefits intended by the statute, we propose to revise our allocation of reinsurance contributions collected and adopt a similar prioritization in the event that reinsurance collections fall short of our estimates. Specifically, if collections fall short of our estimates for a particular benefit year, we propose to alter the allocation so that the reinsurance contributions that are collected are allocated first to the reinsurance pool and administrative expenses, and are allocated to the U.S. Treasury once the targets for reinsurance payments and administrative expenses are met. For example, as Table 1 provides, in 2014, reinsurance contributions would go first to the reinsurance payment pool and administrative expenses, up to $10.02 billion, and any additional contributions collected would be allocated to the U.S. Treasury, up to the total $12.02 billion.

TABLE 1—PROPORTION OF REINSURANCE CONTRIBUTIONS COLLECTED UNDER THE UNIFORM REINSURANCE CONTRIBUTION RATE FOR THE 2014 BENEFIT YEAR FOR REINSURANCE PAYMENTS, PAYMENTS TO THE U.S. TREASURY, AND ADMINISTRATIVE EXPENSES

Proportion or amount for:	If total contribution collections under the 2014 uniform reinsurance contribution rate are less than or equal to $10.02 billion	If total contribution collections under the 2014 uniform reinsurance contribution rate are more than $10.02 billion, but less than or equal to $12.02 billion	If total contribution collections under the 2014 uniform reinsurance contribution rate are more than $12.02 billion
Reinsurance payments.	99.9 percent ($10 billion/$10.02 billion)	$10 billion	Total collections less $2.02 billion (U.S. Treasury and administrative expenses).
Payments to the U.S. Treasury.	0 percent	Total collections less $10.02 billion	$2 billion.
Administrative expenses.	0.1 percent ($20.3 million/$10.02 billion).	$20.3 million	$20.3 million.

Therefore, if we collect $11 billion instead of $12.02 billion for 2014, we propose to fully fund the reinsurance payment pool and administrative expenses, and to pay to the U.S. Treasury $0.98 billion.

Similarly, for 2015, reinsurance contributions would go first to the reinsurance payment pool and

administrative expenses, up to $6.025 billion, and any additional contributions collected would be allocated to the U.S. Treasury, up to the total $8.025 billion.

TABLE 2—PROPORTION OF REINSURANCE CONTRIBUTIONS COLLECTED UNDER THE UNIFORM REINSURANCE CONTRIBUTION RATE FOR THE 2015 BENEFIT YEAR FOR REINSURANCE PAYMENTS, PAYMENTS TO THE U.S. TREASURY, AND ADMINISTRATIVE EXPENSES

Proportion or amount for:	If total contribution collections under the 2015 uniform reinsurance contribution rate are less than or equal to $6.025 billion	If total contribution collections under the 2015 uniform reinsurance contribution rate are more than $6.025 billion, but less than or equal to $8.025 billion	If total contribution collections under the 2015 uniform reinsurance contribution rate are more than $8.025 billion
Reinsurance payments.	99.9 percent ($6 billion/$6.025 billion)	$6 billion	Total collections less $2.025 billion (U.S. Treasury and administrative expenses).
Payments to the U.S. Treasury.	0 percent	Total collections less $6.025 billion	$2 billion.
Administrative expenses.	0.1 percent ($25.4 million/$6.025 billion).	$25.4 million	$25.4 million.

Therefore, if we collect $7 billion instead of $8.025 billion in 2015, we propose to fully fund the reinsurance payment pool and administrative expenses, and to pay to the U.S. Treasury $0.975 billion.

We note that in the 2015 Payment Notice, we amended 45 CFR 153.405(c) to provide a bifurcated contribution collection schedule, under which contributing entities would submit reinsurance contributions via two payments. The first payment would cover the contribution amount allocated to reinsurance payments and administrative expenses; the second payment would cover the contribution amount allocated to payments to the U.S. Treasury for the applicable benefit year. In light of our proposed allocation policy, we note that contributions collected in the second collection would be allocated for reinsurance payments and administrative expenses if the first collection does not fully provide for the target reinsurance pool and administrative expenses. Therefore, for 2014, if the first collection resulted in a total collection of $9 billion, any contribution collected via the second collection up to $1.02 billion would be allocated for reinsurance payments and administrative expenses.

We seek comment on this allocation proposal, including on the legal authority to implement a prioritization of reinsurance contributions to reinsurance payments over payments to the U.S. Treasury. We also seek comment on the appropriate and permissible prioritization of reinsurance administrative expenses, and whether those expenses should have the same or different priority as reinsurance payments or payments to the U.S. Treasury. In addition, we seek comment on alternative allocation approaches to provide the premium stabilization benefits of the reinsurance program, as intended by the statute.

2. Provisions for the Temporary Risk Corridors Program (§ 153.500)

In the 2015 Payment Notice, we indicated that we would consider additional adjustments to the risk corridors program for benefit year 2015. We did so recognizing that issuers of QHPs may face additional administrative costs, risk pool effects, and uncertainty for that benefit year related to State extensions of renewals of plans that do not comply with 2014 market reforms, including the rating rules, the additional time it will take to fully assess the risk profile of 2014 enrollees given the six-month initial open enrollment period, protracted phase-outs of high-risk pools, and the scheduled decline in the reinsurance program payments. We also recognize that issuers of QHPs may face additional costs from other transitions to the 2014 market rules, including the infrastructure requirements around Exchanges, and the distributed data collection methodology for risk adjustment and reinsurance. We note that these uncertainties will continue through the summer of 2014, while issuers are in the process of setting their rates for the 2015 benefit year. Therefore, for the 2015 benefit year, we are considering further adjustments to the risk corridors formula that would help to mitigate these additional administrative costs and uncertainties around operations and the risk pool, and to stabilize the market as it continues to transition to full compliance with Affordable Care Act provisions.

We propose to implement an adjustment to the risk corridors formula set forth in subpart F of part 153 for each of the individual and small group markets by increasing the ceiling on allowable administrative costs (currently set at 20 percent, plus the adjustment percentage, of after-tax premiums). Such an adjustment could increase a QHP issuer's risk corridors ratio if administrative expenses are unexpectedly high or claims costs are unexpectedly low, thereby increasing risk corridors payments or decreasing risk corridors charges. We propose to raise the administrative cost ceiling by 2 percentage points, from 20 percent to 22 percent. We also propose to increase the profit margin floor in the risk corridors formula (currently set at 3 percent, plus the adjustment percentage, of after-tax premiums). Such an adjustment could increase a QHP issuer's risk corridors ratio if claims costs are unexpectedly high, thereby increasing risk corridors payments or decreasing risk corridors charges. We propose to raise the profit margin floor by 2 percentage points, from 3 percent to 5 percent.

We are proposing to implement this proposed increase to the administrative cost ceiling and profit floor in a manner similar to the risk corridors adjustment percentage set forth in the 2015 Payment Notice. In the 2015 Payment Notice, we provided for an adjustment that would increase the administrative cost ceiling and profit floor in the risk corridors formula for QHP issuers in transitional States, in order to account for the effects of the transitional policy. In this proposed rule, we are proposing to increase the administrative cost and profit floor for 2015 for QHP issuers in every State for the reasons described below.

We note that, because the risk corridors program applies only to certain plans defined to be qualified health plans at 45 CFR 153.500, the extent to which an issuer may receive

the full effect of this adjustment would depend upon the portion of an issuer's individual and small group enrollees in plans subject to risk corridors. We intend to implement this program in a budget neutral manner, and may make future adjustments to program parameters, upwards or downwards, as necessary to achieve this goal.

We are proposing that these adjustments apply on a national basis for the 2015 benefit year because we believe that these additional transitional costs and uncertainties will be faced by issuers in all States, not just States adopting the transitional policy. Because many of these costs and uncertainties are difficult to measure, we believe it would be difficult to estimate them on an issuer-by-issuer or State-by-State basis. Additionally, we believe that a national adjustment would be administratively simple for issuers.

For example, issuers will continue to face administrative expenses in seeking to measure the extent to which issuers will extend renewals of plans through the 2015 rate-setting period. They will continue to accrue additional expenses monitoring the risk profile of 2014 enrollees during this period, particularly with the protracted phase-outs of high-risk pools. And they will continue to face uncertainty and administrative costs in measuring likely payouts from the reinsurance program. These costs were not anticipated when we established the 20 percent ceiling on administrative expenses; and we believe that these uncertainties will be difficult to accommodate as part of 2015 rate setting.

Although the adjustments that we are considering would affect each issuer differently, depending on its particular experience and administrative cost rate, we believe that, on average, the adjustment could suitably offset some of these increased costs.

We also propose that the medical loss ratio formula not take into account any additional risk corridors payments resulting from this adjustment, under our authority under section 2718(c) of the PHS Act to ''take into account the special circumstances of smaller plans, different types of plans, and newer plans.'' This proposed approach is similar to the policy established forth in the 2015 Payment Notice, which removes the effect of the risk corridors adjustment percentage from an issuer's MLR calculation.

We request comment on all aspects of this proposal. In particular, we request comment on the specific administrative costs associated with each of these policies, and other types of additional administrative or other expenses that will be incurred by issuers of QHP in 2015. We seek comment on the magnitude of these expenses, and whether these expenses could have been fairly estimated and included in premium rating. We seek comment on whether the administrative ceiling or the profit floor should be raised (or both), and in each case, by how much, to account for these costs and uncertainties. We also seek comment on alternate ways of implementing adjustments to the risk corridors program, including whether raising the administrative cost ceiling or raising the profit floor would alone be sufficient to help offset issuer's unexpected administrative expenses. Finally, we seek comment on whether certain limitations or conditions should be placed on the adjustment, and whether the adjustment should be limited to certain types of plans or should apply only in certain States.

E. Part 155—Exchange Establishment Standards and Other Related Standards Under the Affordable Care Act

1. Subpart B—General Standards Related to the Establishment of the Exchange

a. Non-Interference with Federal Law and Non-Discrimination Standards (§ 155.120)

In section 45 CFR 155.120(c), we established the requirement that the State and the Exchange, when carrying out the requirements of Part 155, must comply with any applicable non-discrimination statutes, and must not discriminate on the basis of race, color, national origin, disability, age, sex, gender identity or sexual orientation. We stated that the non-discrimination provisions of § 155.120(c) apply not just to the Exchanges themselves, but to Exchange contractors and all Exchange activities (including but not limited to marketing, outreach and enrollment), Navigators, non-Navigator assistance personnel, certified application counselors, and organizations designated to certify their staff and volunteers as certified application counselors (78 FR 42829). We also established in 45 CFR 155.105(f) that this non-discrimination requirement applies to the Federally-facilitated Exchanges.

We now propose to re-designate the introductory language in existing § 155.120(c) as a new section § 155.120(c)(1), re-designate existing § 155.120(c)(1) as a new § 155.120(c)(1)(i), and re-designate existing § 155.120(c)(2) as a new § 155.120(c)(1)(ii). We are proposing to make these technical changes to existing § 155.120(c) so that we can add a new paragraph (c)(2) to § 155.120 that creates a limited exception to the non-discrimination provisions in existing § 155.120(c)(1) and (c)(2). Under this proposed exception, an organization receiving Federal funds to provide services to a defined population under the terms of Federal legal authorities (for example, a Ryan White HIV/AIDS Program or an Indian health provider) that participates in the certified application counselor program under 45 CFR 155.225 may limit its provision of certified application counselor services to the same defined population without violating the non-discrimination provisions in existing § 155.120(c). We are proposing to adopt this exception to the non-discrimination provisions in order to allow such organizations to provide certified application counselor services and assist their defined populations in enrolling in health coverage offered through the Exchanges consistent with the Federal legal authorities under which such organizations operate.

To the extent that one of these organizations decides to take advantage of this exception, but is approached for certified application counselor services by an individual who is not included in the defined population that the organization serves, we propose that the organization must refer the individual to other Exchange-approved resources, such as the toll-free Exchange call center, a Navigator, non-Navigator assistance personnel, or another designated certified application counselor organization, that are able to provide assistance to the individual.

However, to the extent that one of these organizations decides that it will not take advantage of this proposed exception, we propose that the non-discrimination provisions in existing § 155.120(c) would continue to apply. That is, if an organization decides that it will provide certified application counselor services to individuals that are not included in the defined population that it serves, it must provide those services to all individuals consistent with the non-discrimination provisions in existing § 155.120(c).

2. Subpart C—General Functions of an Exchange

a. Civil Money Penalties for Violations of Applicable Exchange Standards by Consumer Assistance Entities in Federally-Facilitated Exchanges (§ 155.206)

In a new § 155.206, as part of HHS's enforcement authority under section

1321(c)(2) of the Affordable Care Act, we propose to provide for the imposition of civil money penalties (CMPs) on Navigators, non-Navigator assistance personnel, and certified application counselors and certified application counselor designated organizations in FFEs and State Partnership Exchanges that do not comply with applicable Federal requirements. This proposal is designed to deter these entities and individuals from failing to comply with the Federal requirements that apply to them, and to ensure that consumers interacting with the Exchange receive high-quality assistance and robust consumer protection. As a general principle, while HHS proposes to establish authority to assess CMPs when appropriate, consistent with this proposed rule, we note that we also intend to continue to work collaboratively with consumer assistance entities and personnel to prevent noncompliance issues and address any that may arise before they might rise to the level where CMP would be assessed.

The Secretary, under the authority of sections 1311(i) and 1321(a)(1) of the Affordable Care Act, has previously established a range of consumer assistance programs to help consumers apply for and enroll in QHPs and insurance affordability programs through the Exchange. These consumer assistance programs include the Navigator program described at section 1311(i) of the Affordable Care Act and 45 CFR 155.210; the consumer assistance, outreach, and education functions authorized by section 1321(a)(1) of the Affordable Care Act and established at 45 CFR 155.205(d) and (e), which can include a non-Navigator assistance personnel program; and the certified application counselor program authorized by section 1321(a)(1) of the Affordable Care Act and set forth at 45 CFR 155.225. Under these authorities and the authority granted to the Secretary by section 1321(c)(1) of the Affordable Care Act, the FFE has implemented a Navigator and certified application counselor program in all States that did not elect to establish an Exchange, and has implemented a non-Navigator assistance program in some of those States, through an enrollment assistance contract.

Under section 1321(c)(2) of the Affordable Care Act, the provisions of section 2723(b) of the PHS Act [29] apply to the Secretary's enforcement, under section 1321(c)(1) of the Affordable Care Act, of the standards established by the Secretary under section 1321(a)(1) of the Affordable Care Act for meeting the requirements under title I of the Affordable Care Act, including the establishment and operation of Exchanges, without regard to any limitation on the application of the provisions of section 2723(b) of the PHS Act to group health plans. Section 2723(b) of the PHS Act provides the Secretary with authority to assess CMPs against health insurance issuers that fail to meet certain Federal requirements set forth in the PHS Act that apply to group health plans, in circumstances where, in the Secretary's determination, the State that regulates the issuer has failed to ''substantially enforce'' those requirements. We interpret the cross-reference to section 2723(b) of the PHS Act in section 1321(c)(2) of the Affordable Care Act as providing the Secretary with authority to assess CMPs to enforce requirements established under section 1321(a)(1) of the Affordable Care Act against any entity subject to those requirements, under circumstances where the Secretary is exercising her authority under 1321(c)(1) of the Affordable Care Act. For purposes of this proposal, we would consider that any State that has not elected to establish an Exchange, and in which the Secretary has therefore had to establish and operate an Exchange under section 1321(c)(1), is not ''substantially enforcing'' the requirements related to Exchanges that the Secretary has established under section 1321(a)(1).

Accordingly, HHS has the authority under section 1321(c)(2) of the Affordable Care Act to assess CMPs against Navigators, non-Navigator assistance personnel, and certified application counselors and certified application counselor designated organizations in FFEs, including State Partnership Exchanges, for violations of the requirements of the Navigator, non-Navigator, and certified application counselor programs that the Secretary established under section 1321(a)(1) of the Affordable Care Act. This proposal sets forth the circumstances under which the Secretary would exercise this authority. It is based on the enforcement scheme laid out in section 2723(b) of the PHS Act, and the implementing regulations at 45 CFR 150.301 *et seq.,* but it does not follow that enforcement scheme exactly, in light of the differences between the circumstances in which the Secretary would exercise her authority under PHS Act 2723(b) versus those under which she would exercise her authority under section 1321(c)(2) of the Affordable Care Act.

Proposed § 155.206(a) would establish the scope and purpose of the proposed CMP provisions and explains when and against whom HHS would assess a CMP under this proposal. At § 155.206(a)(2), we propose that HHS could permit an entity or individual to whom it has issued a notice of assessment of CMP to enter into a corrective action plan instead of paying the CMP. We specify that permitting an entity to enter into a corrective action plan would not limit HHS's authority to require payment of the assessed CMP if the corrective action plan is not followed. Under this proposal, the determination of whether HHS would enter into a corrective action plan in place of imposing a CMP would depend upon the factors proposed in § 155.206(h). We believe this approach would allow us not only to penalize violations if necessary, but also to prioritize working collaboratively with consumer assistance entities to ensure that improvements are made and future violations are prevented. We also believe this approach is consistent with the limitation on imposing CMPs that is set forth at PHS Act section 2723(b)(2)(C)(iii)(II), under which no CMP may be assessed for violations due to reasonable cause and not due to willful neglect, if the violation is corrected during the 30-day period beginning on the first day any of the entities against whom the penalty would be assessed knew, or exercising reasonable diligence would have known, that such failure existed.

We are considering whether to provide for an expedited process through which HHS may assess and impose CMPs, if extenuating circumstances exist or if necessary to protect the public. We believe HHS's ability to take swift action might be particularly useful in cases where HHS permits an entity to enter into a corrective action plan in lieu of a CMP, so that the entity would promptly begin remedial efforts under the corrective action plan without undue delay. We are considering an expedited process through which HHS would provide the consumer assistance entity less than the 30-day period provided for under proposed paragraph (e) to respond to the notice of investigation under proposed paragraph (e)(1), or possibly omit that period altogether. In all cases where an expedited process would apply, we anticipate that the entity against which a CMP is assessed would have an

[29] Section 1321(c)(2) of the Affordable Care Act erroneously cites to section 2736(b) of the PHS Act instead of 2723(b) of the PHS Act. This was clearly a typographical error, and we have therefore interpreted section 1321(c)(2) of the Affordable Care Act to incorporate section 2723(b) of the PHS Act.

opportunity to appeal the imposition of the penalty after it has been assessed. We seek comment on whether HHS should provide for such an expedited process and on all aspects of how it should be structured, including comments on how such an expedited process could provide sufficient protection to the public, comments on how such an expedited process could be sufficiently protective of the rights of entities and individuals that might be assessed a CMP, and comments on other ways through which the process for imposing CMPs under this proposal could be expedited if necessary to protect the public.

We are also considering implementing an approach that would give the HHS Office of Inspector General (OIG) concurrent authority with CMS to enforce violations under this section. Given OIG's expertise in investigating waste, fraud, and abuse in the Medicare and Medicaid programs, we are considering whether certain violations of an Exchange consumer assistance entity's program requirements might be most effectively investigated by OIG, or whether a more streamlined approach with a single enforcement authority would be preferable. In considering whether OIG should have concurrent enforcement authority under this proposed section, we are considering whether both CMS and OIG should use the procedures laid out in proposed § 155.206 for investigating potential violations and conducting administrative appeals, or whether and to what extent OIG should rely on its own enforcement procedures under 42 CFR, chapter V, subchapter B for either the investigative process or the administrative appeals process, or both, and whether some of the procedures outlined in OIG's enforcement procedures under those regulations should be incorporated into this section. We note that because our enforcement authority under section 1321(c)(2) of the Affordable Care Act requires compliance with the provisions of section 2723(b) of the PHS Act, any process used by OIG would have to comply with the requirements in those statutory provisions. We seek comment on whether OIG should have concurrent authority to enforce these proposed CMP provisions. In addition, we seek comment on what procedures we should use to determine which cases should fall under CMS or OIG enforcement authority, in the event OIG has concurrent authority. For example, we are considering providing that OIG would enforce only consumer assistance personnel or entity noncompliance involving systemic fraud or gross misconduct, rather than isolated incidents. We invite comment on this issue, and how those determinations would be made, as well as comments on any other aspects of a concurrent authority scheme that we should consider.

In proposed § 155.206(b), we specify the individuals and entities that could be subject to HHS' enforcement authority under this proposal. These individuals and entities would include Navigators, non-Navigator assistance personnel (also referred to as in-person assistance personnel) authorized under § 155.205(d) and (e), and certified application counselors and organizations designated as certified application counselor organizations in FFEs, including in State Partnership Exchanges. We refer to these individuals and entities in the proposed rule as ''consumer assistance entities,'' but these proposed CMPs could be assessed against both entities and individuals. We seek comment on whether all of the individuals and entities listed in proposed § 155.205(b) should be subject to CMPs, and on whether other entities and individuals should be added to that list.

In § 155.206(c), we propose the grounds on which HHS could impose CMPs on the entities and individuals specified in § 155.206(b). Section 1321(c)(2) of the Affordable Care Act authorizes the Secretary to enforce the requirements of section 1321(a)(1) of the Affordable Care Act, which include the requirements established by the Secretary regarding Exchange consumer assistance functions. Under our proposal, this statutory provision would authorize HHS to assess a CMP or, in lieu of a CMP, a corrective action plan against Navigators, non-Navigator assistance personnel, certified application counselors, and certified application counselor organizations in FFEs if HHS determines that these individuals or entities are not in compliance with the Exchange standards applicable to them. These Exchange standards would include any applicable regulations implemented under title I of the Affordable Care Act, as interpreted through applicable HHS guidance, such as the regulations governing consumer assistance tools and programs of an Exchange at § 155.205; those governing Navigators at § 155.210 and Navigators in FFEs at § 155.215; those governing certified application counselors at § 155.225; and those under § 155.215 governing non-Navigator assistance personnel in FFEs. These standards would also include any applicable HHS guidance interpreting an existing regulatory or statutory provision.

For example, § 155.215(b)(1)(i) requires FFE Navigators to obtain certification by the Exchange prior to carrying out any consumer assistance functions under § 155.210. Under this proposal, a Navigator who facilitates the selection of a QHP (a Navigator duty under § 155.210(e)(3)) prior to obtaining his or her Exchange certification might, depending on the circumstances, be subject to CMPs under § 155.206.

As another example, § 155.210(e)(2) requires Navigators to provide information and services in a fair, accurate, and impartial manner, and § 155.215(a)(2)(i) extends this duty to non-Navigator assistance personnel in FFEs. Any FFE Navigator or FFE non-Navigator assistance personnel who, while carrying out Exchange-related activities, furnishes information that he or she knew or should have known is false or fraudulent to consumers, the Exchange, or to HHS, would have violated these provisions and might, depending upon the circumstances, be subject to CMPs under proposed § 155.206. If a Navigator or any non-Navigator assistance personnel in a FFE encourages an applicant or enrollee to submit false information on an application for coverage though the Exchange, we would also consider that to be a violation of his or her duty to provide information in a fair, accurate, and impartial manner; and this violation might, depending on the circumstances, also subject the individual or entity to the proposed CMPs. Such a Navigator or non-Navigator assistance personnel would not be providing fair or accurate information to consumers, because in light of the penalties at section 1411(h) of the Affordable Care Act for providing false information on an Exchange application, it is not fair or accurate to state or imply that a consumer would be permitted to falsify application information.

As a final example, a certified application counselor in an FFE who steers consumers toward one particular QHP would not be acting in the best interest of consumers, as required by § 155.225(d)(4), and would not be giving consumers information about the full range of QHP options and insurance affordability programs for which they are eligible, as required by § 155.225(c)(1). Such a certified application counselor might, depending on the circumstances, be subject to CMPs under our proposed § 155.206.

We note that § 155.285 of this proposed rule would extend CMPs to consumer assistance entities who misuse or impermissibly disclose

personally identifiable information in violation of section 1411 of the Affordable Care Act. Therefore, we have not addressed penalties for those actions here. Some conduct by consumer assistance entities may warrant CMPs under either § 155.285 or § 155.206, and in such cases we believe HHS has discretion to determine whether to impose a CMP under this regulation or under § 155.285 of this subpart. However, we specify in proposed § 155.206(c) that HHS would not assess a CMP under this section if a CMP has already been assessed for the same conduct under § 155.285. Additionally, CMPs are not the only enforcement remedy that would apply to the entities and individuals who would be subject to proposed § 155.206. For instance, HHS could take other enforcement actions against FFE Navigators, which are Federal grantees, under the regulations governing HHS grants. Furthermore, some of the actions described above may subject consumer assistance entities to criminal liability under Federal or State law.

In § 155.206(d), we propose the basis for initiating an investigation of a potential violation. We propose that HHS could initiate an investigation based on any information it receives indicating that a consumer assistance entity might be in noncompliance with applicable Exchange standards. Such information could include consumer complaints, reports from State insurance departments and other Federal and State agencies, and any other information indicating such a violation. We also propose that any entity or individual could file such a complaint with HHS.

In § 155.206(e), (f) and (g), we propose to outline the process that HHS would follow to investigate potential violations in order to determine whether the consumer assistance entity has engaged in noncompliance of applicable Exchange standards. Under proposed § 155.206(e), if HHS learns of a potential violation through the means described in paragraph (d) in this section and determines that further investigation is warranted, HHS would provide written notice of its investigation to the consumer assistance entity. Such notice would describe the potential violation, provide 30 days from the date of the notice for the consumer assistance entity to respond and provide HHS with information and documents, including information and documents to refute an alleged violation, and would state that a CMP might be assessed if the consumer assistance entity fails to refute the allegations in HHS' determination.

In § 155.206(f), we propose a process for a consumer assistance entity to request an extension from HHS when the entity cannot prepare a response to HHS's notice of investigation within the 30 days provided in the notice. Under our proposal, if HHS grants the extension, the responsible entity would be required to respond to the notice of investigation within the time frame specified in HHS's letter granting the extension of time, and failure to respond within 30 days, or within the extended time frame, could result in HHS's imposition of the CMP that would apply based upon HHS's initial determination of a potential violation as set forth in the notice of investigation under § 155.206(e).

In § 155.206(g), we propose that HHS could review and consider documents or information received or collected in accordance with paragraph (d)(1) of this section or provided by the consumer assistance entity in response to receiving a notice in accordance with paragraph (e)(2) of this section. We also propose that HHS may conduct an independent investigation into the alleged violation, which may include site visits and interviews, if applicable, and may consider the results of this investigation in its determination. The purpose of these proposed provisions is to ensure that HHS would follow reasonable procedures when investigating a potential violation, and to allow a consumer assistance entity a reasonable timeframe to provide evidence refuting the allegation or other information regarding the alleged violation, including its severity or mitigating circumstances.

In § 155.206(h), we propose the factors that HHS would use to determine the appropriate CMP amount, and to determine whether it would be appropriate to offer the entity or individual an opportunity to enter into a corrective action plan in place of the CMP. We intend that the CMP amount, and opportunity to enter into a corrective action plan, would vary based on our assessment of the consumer assistance entity's previous or ongoing record of compliance; the gravity of the violation, as determined in part by the frequency of the violation and the financial harm incurred by a consumer; and the culpability of the consumer assistance entity, as determined, in part, by whether the entity received payment for committing the violation. We believe these factors would allow us to tailor enforcement actions to specific violations, while maintaining robust enforcement authority in the interest of protecting consumers.

Section 2723(b)(2)(C) of the PHS Act limits the amount of CMPs authorized under section 1321(c)(2) of the Affordable Care Act to $100 for each day for each individual directly affected. Therefore in § 155.206(i), we propose that the maximum daily amount of penalty assessed for each violation would be $100 for each day, for each consumer assistance entity, for each individual directly affected by the entity's non-compliance. Similar to our rules on the maximum penalty for noncompliant QHP issuers in 45 CFR 156.805(c), we anticipate that there might be situations where HHS cannot determine the number of individuals directly affected. Therefore, we propose, consistent with the approach under existing rules at 45 CFR 156.805(c), that in such situations HHS may reasonably estimate this number, based on available information, such as data from a Federal Navigator grantee's quarterly or weekly report concerning the number of consumers assisted. We also clarify that imposing $100 for each day an individual is directly affected would mean that we would look at the entirety of time the consumer was affected by the noncompliance of the assistance entity. For example, if a certified application counselor in an FFE is found to be steering consumers into a specific plan without regard to the consumers' best interests in violation of § 155.225(d)(4), we might assess CMPs based on our reasonable estimate of the number of consumers affected by the conduct, as well as the entire time the conduct took place, including the time during which each consumer is enrolled in the plan to which he or she was improperly steered. Although we have proposed a maximum per day penalty, we have not proposed a cap on the total penalty that could be assessed by HHS, and we seek comment on whether we should propose such a cap.

In proposed § 155.206(j), we propose to clarify that nothing in this section limits HHS's authority to settle any issue or case described in the notice furnished in accordance with paragraph (e), or to compromise on any CMP provided for in this section. This provision is based on a similar provision in the HIPAA enforcement scheme at 45 CFR 150.325.

Section 2723(b)(2)(C) of the PHS Act places certain limitations on CMPs authorized under section 1321(c)(2) of the Affordable Care Act, including the limitation that HHS will not assess a CMP where the entity did not know, or exercising reasonable diligence would not have known, of the violation. We propose to implement these limitations in § 155.206(k). We believe these limitations would help balance the interests of HHS, the Exchange, and consumers to have consumer assistance

entities exercise reasonable diligence in understanding and executing their obligations, while not unnecessarily penalizing consumer assistance entities who are acting in good faith. We also propose, based on the HIPAA enforcement structure at 45 CFR 150.341, that the burden is on the consumer assistance entity to establish that the circumstances triggering these limitations existed.

In § 155.206(l), we propose standards for notifying consumer assistance entities of the intent to assess a CMP, which notice would include an explanation of the entity's right to an appeal pursuant to the process set forth at 45 CFR Part 150, Subpart D, as provided in proposed § 155.206(m). We seek comment on whether all aspects of that process should be applicable to appeals of these CMPs. Finally, in § 155.205(n), we propose that HHS may require payment of the proposed CMP if the consumer assistance entity does not timely request a hearing.

We seek comment on all aspects of these proposals, including but not limited to whether other provisions of 45 CFR Part 150 should be adopted and made applicable to this proposed enforcement scheme, whether a specific limitations period should apply, and if so, what limitations period would be appropriate for violations of applicable Exchange standards by consumer assistance entities in FFEs.

b. Navigator, Non-Navigator Assistance Personnel, and Certified Application Counselor Program Standards (§§ 155.210, 155.215, and 155.225)

Sections 1311(d)(4)(K) and 1311(i) of the Affordable Care Act direct all Exchanges to establish a Navigator program. Section 1321(a)(1) of the Affordable Care Act directs the Secretary to issue regulations that set standards for meeting the requirements of title I of the Affordable Care Act, with respect to, among other things, the establishment and operation of Exchanges. Pursuant to the authority established in section 1321(a)(1), the Secretary issued 45 CFR 155.205(d) and (e), which authorize Exchanges to perform certain consumer service functions in addition to the Navigator program. 45 CFR 155.205(d) provides that each Exchange must conduct consumer assistance activities, and § 155.205(e) provides that each Exchange must conduct outreach and education activities to inform consumers about the Exchange and insurance affordability programs, to encourage participation.

The consumer assistance function authorized by § 155.205(d) includes the Navigator grant program established under section 1311(i) of the Affordable Care Act. Section 155.205(d) and (e) also allow for the establishment of a non-Navigator consumer assistance program. 45 CFR 155.215 establishes standards for non-Navigator assistance personnel in FFEs, including State Partnership Exchanges, and for non-Navigator assistance personnel in State Exchanges if they are funded with section 1311(a) Exchange Establishment grant funds. Also pursuant to the authority established in section 1321(a)(1), the Secretary issued 45 CFR 155.225, which establishes the certified application counselor program as a consumer assistance function of the Exchange, separate from and in addition to the functions described in §§ 155.205(d) and (e), 155.210, and 155.215.

Navigator duties and requirements for all Exchanges are set forth in section 1311(i) of the Affordable Care Act and 45 CFR 155.210. Additional duties and requirements for Navigators in Federally-facilitated and State Partnership Exchanges are set forth at 45 CFR 155.215. Section 155.215 also sets forth duties and requirements for non-Navigator assistance personnel in Federally-facilitated and State Partnership Exchanges, and for non-Navigator assistance personnel in State Exchanges if those personnel are funded with section 1311(a) Exchange Establishment grant funds. Certified application counselor duties and requirements for all Exchanges are set forth in 45 CFR 155.225.

In accordance with sections 1311(i)(4) and 1321(d) of the Affordable Care Act, we previously established in 45 CFR 155.210(c)(1)(iii) that Navigators ''must meet any licensing, certification or other standards prescribed by the State or Exchange, if applicable, so long as such standards do not prevent the application of the provisions of title I of the Affordable Care Act.'' We have not established a similar requirement for the non-Navigator assistance personnel that are subject to 45 CFR 155.215. Nor did we finalize a proposed requirement that would have required certified application counselors to comply with State law as a condition of certification. However, we noted in the preamble to the rulemaking establishing the certified application counselor program that section 1321(d) of the Affordable Care Act provides that State laws that do not prevent the application of the provisions of title I of the Affordable Care Act are not preempted.[30] These preemption principles apply to all of the Federal standards and duties that apply to Navigators, non-Navigator assistance personnel and certified application counselors, since these have been authorized and established under title I of the Affordable Care Act.

We now propose to specify certain non-Federal requirements that would prevent the application of provisions of title I of the Affordable Care Act with respect to the Navigator, non-Navigator assistance personnel, and certified application counselor programs, within the meaning of section 1321(d) of the Affordable Care Act. This proposal does not purport to capture the complete universe of State requirements that might be preempted in this context, and we therefore recognize that a Federal court may also find other non-Federal requirements that we do not expressly mention in this proposed rule to be preempted.[31]

We propose amending § 155.210(c)(1)(iii) by adding new paragraphs (A) through (F) to specify certain non-Federal requirements that would prevent the application of the provisions of title I of the Affordable Care Act, within the meaning of section 1321(d) of the Affordable Care Act, with respect to the Navigator program. We also propose to amend § 155.215(f) to make clear that we would consider the same types of non-Federal requirements listed in § 155.210(c)(1)(iii)(A) through (F) (except for 155.210(c)(1)(iii)(D)) to prevent the application of the provisions of title I of the Affordable Care Act within the meaning of section 1321(d) of the Affordable Care Act, when applied to non-Navigator assistance personnel subject to § 155.215. Similarly, with respect to the certified application counselor program, we propose amending § 155.225(d) by adding a new paragraph (d)(8) to specify that certified application counselors must meet any licensing, certification or

[30] Patient Protection and Affordable Care Act; Exchange Functions: Standards for Navigators and Non-Navigator Assistance Personnel; Consumer Assistance Tools and Programs of an Exchange and Certified Application Counselors, 78 FR 42845 (finalized July 17, 2013).

[31] The U.S. District Court for the Western District of Missouri recently granted the plaintiff's motion for a preliminary injunction in litigation challenging a Missouri law regulating Navigators and other Exchange consumer assistance personnel on the grounds, *inter alia,* that certain provisions of the Missouri law are preempted by Federal law. The court concluded that ''state laws that make operation of the [Federally-facilitated Exchange] more difficult or onerous run afoul of the Affordable Care Act's purpose and are subject to preemption.'' *St. Louis Effort for AIDS, et al.* v. *Huff,* No. 13–4246–CV–C–ODS, 2014 WL 273201, at *5 (W.D. Mo. Jan. 23, 2014) (order granting preliminary injunction). This decision is currently under appeal before the United States Court of Appeals for the Eighth Circuit, *St. Louis Effort for AIDS* v. *Huff,* No. 14–1520 (8th Cir. appeal docketed Mar. 6, 2014).

other standards prescribed by the State or Exchange, if applicable, so long as such standards do not prevent the application of the provisions of title I of the Affordable Care Act within the meaning of section 1321(d) of the Affordable Care Act. New § 155.225(d)(8) would also make clear that we would consider non-Federal requirements similar to those listed in § 155.210(c)(1)(iii)(A) through (F) (except for 155.210(c)(1)(iii)(D)) to prevent the application of the provisions of title I of the Affordable Care Act within the meaning of section 1321(d) of the Affordable Care Act, when applied to certified application counselors.

As we discuss in greater detail below, these proposed amendments are directed at non-Federal requirements that conflict with Federal statutory or regulatory standards and that either, on their face, prevent assisters from performing their Federally required duties, or that would conflict with Federal standards in specific factual circumstances.

The purpose of these proposed provisions is to specify a non-exhaustive list of circumstances under which HHS would consider a non-Federal requirement applicable to Navigators, non-Navigator assistance personnel, or certified application counselors to prevent the application of provisions of title I of the Affordable Care Act, within the meaning of section 1321(d) of the Affordable Care Act. As a general principle, if a non-Federal requirement would, on its face, prevent Navigators, non-Navigator assistance personnel subject to § 155.215, or certified application counselors from carrying out Federally mandated duties or from otherwise meeting Federal standards that apply to them, or if a non-Federal requirement would make it impossible for an Exchange to implement those consumer assistance programs consistent with the Federal statutes and regulations governing those programs, then, in HHS's view, such a requirement would prevent the application of the provisions of title I of the Affordable Care Act.

These proposed preemption standards would not preclude a State from establishing or implementing additional State law protections for its consumers, so long as such laws do not prevent the application of Federal requirements for these consumer assistance programs. For example, a State may require these types of Exchange-approved assisters to undergo fingerprinting or background checks before they can operate in a State, so long as a State's implementation of these additional requirements does not prevent the Exchange from implementing these consumer assistance programs in the State consistent with Federal standards or make it impossible for the assisters to perform their Federally required duties.

We propose to make some, but not all, of the proposed provisions applicable to Navigators, non-Navigator assistance personnel subject to 45 CFR 155.215, and certified application counselors (or certified application counselor designated organizations) that are operating in State Exchanges. Non-Federal requirements that would prevent these individuals or entities from carrying out their Federally mandated duties or from otherwise meeting applicable Federal statutory and regulatory standards and requirements would prevent the application of title I of the Affordable Care Act. Generally, for the reasons addressed below, proposed § 155.210(c)(1)(iii)(A) through (D) would apply to Navigators in State Exchanges; through the cross reference to § 155.210(c)(1)(iii), proposed § 155.215(f) would apply provisions § 155.210(c)(1)(iii)(A) through (C) to non-Navigator assistance entities or individuals in State Exchanges that are funded through an Exchange Establishment Grant under section 1311(a) of the Affordable Care Act; and proposed § 155.225(d)(8)(i) through (iii) would apply to certified application counselors and/or designated certified application counselor organizations in State Exchanges. In general, we believe that the provisions listed above should apply in a State Exchange because these provisions address requirements that, in HHS' view, would facially conflict with Federal requirements or standards established under Federal law, while the provisions that we propose would not apply in State Exchanges relate to how the State interacts with an FFE or implements State requirements for the relevant consumer assistance personnel. Based on our observations, a State Exchange has an enhanced ability to work with the State to establish its own standards and coordinate the implementation of State law applicable to assisters in a manner that does not conflict with Federal standards or prevent the State Exchange from implementing consumer assistance programs consistent with Federal requirements. We solicit comments on whether all the proposed provisions should apply in State Exchanges. We also seek comments on whether there are other types of non-Federal requirements for these types of assisters in a State Exchange that might prevent the application of Federal law within the meaning of section 1321(d) of the Affordable Care Act.

In our proposal, we first propose that non-Federal laws or regulations which require Navigators, non-Navigator assistance personnel subject to § 155.215, and certified application counselors to refer consumers to agents or brokers, or to any other sources not required to provide them with impartial advice, would prevent the application of the provisions of title I of the Affordable Care Act. Non-Federal laws or regulations that require referrals to sources that are not required to provide impartial advice would, on their face, make it impossible for these assisters to comply with existing Federal statutory and regulatory duties and standards. Navigators are required to ''distribute fair and impartial information concerning enrollment in qualified health plans, and the availability of premium tax credits . . . and cost-sharing reductions . . .,'' under section 1311(i)(3)(B) of the Affordable Care Act. Additionally, section 1311(i)(5) of the Affordable Care Act requires the Secretary, in collaboration with States, to ''develop standards to ensure that information made available by [N]avigators is fair, accurate, and impartial.'' Accordingly, HHS regulations at § 155.210(e)(2) require Navigators in all Exchanges to provide ''information and services in a fair, accurate and impartial manner'' and HHS regulations at § 155.215(a)(1)(iii) require Navigators in Federally-facilitated and State Partnership Exchanges to ''provide information to consumers about the full range of QHP options and insurance affordability programs for which they are eligible.'' HHS regulations at § 155.215(a)(2)(i) and (iv) impose the same requirements upon non-Navigator assistance personnel in Federally-facilitated and State Partnership Exchanges. Similarly, § 155.225(c)(1) requires certified application counselors to provide ''information to individuals and employees about the full range of QHP options and insurance affordability programs for which they are eligible'' and § 155.225(d)(4) requires certified application counselors to act in the best interest of the applicants assisted. If a non-Federal law or regulation requires Navigators or non-Navigator assistance personnel subject to § 155.215 to refer consumers to third parties that do not have a duty to provide consumers with information that is fair, accurate, and impartial or requires a certified application counselor to refer consumers to third parties that do not

have a duty to act in the consumer's best interest, that non-Federal law would prevent Navigators, non-Navigator assistance personnel, or certified application counselors from meeting the above-mentioned Federal requirements. This proposal would apply in all Exchanges, with the following limited exception for certain Navigators. Where a State has elected to establish and operate only a SHOP Exchange pursuant to 45 CFR 155.100(a)(2), and has opted under 45 CFR 155.705(d) to permit Navigator duties at § 155.210(e)(3) and (4) in the SHOP-only State Exchange to be fulfilled through referrals to agents and brokers, we would not consider State laws or regulations that permit the State to take the option at § 155.705(d) to prevent the application of the provisions of title I of the Affordable Care Act, since that option is authorized under Federal law.

We solicit comment on whether non-Federal requirements that obligate Navigators, non-Navigator assistance personnel subject to § 155.215, and certified application counselors to refer employers and employees in the small group market to agents and brokers should not be considered to prevent the application of the provisions of title I of the Affordable Care Act within the meaning of section 1321(d) of the Affordable Care Act.

Second, we propose that non-Federal laws or regulations that prevent Navigators, non-Navigator assistance personnel subject to § 155.215, and certified application counselors from providing services to all persons to whom they are required to provide assistance would also, on their face, prevent the application of the provisions of title I of the Affordable Care Act within the meaning of section 1321(d) of the Affordable Care Act. For example, if a non-Federal requirement prohibited Navigators and non-Navigator assistance personnel subject to § 155.215 from assisting an employer or employee regarding SHOP coverage or from acting as an intermediary between that employer and an issuer without being a licensed insurance agent or broker, then such a prohibition would prevent Navigators from performing their Federally required duties and would therefore prevent the application of the provisions of title I of the Affordable Care Act within the meaning of section 1321(d) of the Affordable Care Act. Specifically, such non-Federal requirements would prevent Navigators from providing ''information and services in a fair, accurate and impartial manner'' as required by 45 CFR 155.210(e)(2). They would also prevent non-Navigator assistance personnel subject to 155.215 from complying with the same requirement, as is required by § 155.215(a)(2)(i). We interpret the requirement that Navigators and non-Navigator assistance personnel subject to § 155.215 provide information and services fairly and impartially as a requirement that these assisters provide their services to all consumers seeking assistance. As we have mentioned in prior rulemaking, Navigators and non-Navigator assistance personnel should have the ability to help any individual who presents him or herself for assistance (see 78 FR 42830). Further, these requirements would prevent Navigators and non-Navigator assistance personnel subject to § 155.215 from being prepared to serve both the individual Exchange and SHOP, as required by § 155.215(b)(1)(v). Similarly, with respect to certified application counselors and certified application counselor organizations, if a non-Federal requirement barred these individuals or entities from assisting an employee with SHOP coverage, then such a requirement would prevent them from performing their Federally required duty to provide information to employees about the full range of QHP options for which they are eligible and assist employees to apply for coverage in a QHP through the Exchange and for insurance affordability programs, as set forth under § 155.225(c)(1) and (2).

As another example, with respect to Navigators, non-Navigator assistance personnel subject to § 155.215, and certified application counselors and organizations, if a non-Federal law required these individuals or entities to either cease assisting a consumer or to discourage the consumer from seeking assistance from the assister whenever a consumer disclosed that he or she was currently insured or had previously purchased health insurance with the aid of an agent or broker (even if that consumer expresses to the assister that he or she does not want to be assisted by an agent or broker), then such a non-Federal requirement would prevent the application of the provisions of title I of the Affordable Care Act within the meaning of section 1321(d) of the Affordable Care Act. Specifically, these types of requirements would prevent Navigators from providing ''information and services in a fair, accurate and impartial manner'' as required by 45 CFR 155.210(e)(2). They would also prevent non-Navigator assistance personnel subject to 155.215 from complying with the same requirement, as is required by § 155.215(a)(2)(i). We interpret the requirement that Navigators and non-Navigator assistance personnel subject to § 155.215 provide information and services fairly and impartially as a requirement that these assisters serve any consumer who presents him or herself for assistance, without regard to whether the consumer has existing health insurance coverage or previously had such coverage. Such a non-Federal requirement would also keep these assisters from performing their Federally required duty to be prepared to serve both the individual Exchange and SHOP, as required by § 155.215(b)(1)(v). With respect to certified application counselors, these types of requirements would prevent them from carrying out required duties under § 155.225(c)(1) and (2), which require that certified application counselors provide information to employees about the full range of QHP options for which they are eligible and assist employees to apply for coverage in a QHP through the Exchange. Requirements of this type would also potentially prevent certified application counselors from acting in the best interests of the applicants assisted, as required by § 155.225(d)(4), especially in circumstances where a consumer expresses a desire to not consult an agent or broker.

Where a State has elected to establish and operate only a SHOP Exchange pursuant to 45 CFR 155.100(a)(2), and has opted under 45 CFR 155.705(d) to permit Navigator duties at § 155.210(e)(3) and (4) in the SHOP-only State Exchange to be fulfilled through referrals to agents and brokers, we would not consider State laws or regulations that permit the State to take the option at § 155.705(d) to prevent the application of the provisions of title I of the Affordable Care Act, since that option is authorized under Federal law.

Third, we propose that non-Federal laws that prevent Navigators, non-Navigator assistance personnel subject to § 155.215, and certified application counselors from discussing the terms of coverage of any particular policy or plan, or from providing advice regarding substantive benefits or comparative benefits of different health plans, would also, on their face, prevent the application of the provisions of title I of the Affordable Care Act within the meaning of section 1321(d) of the Affordable Care Act. Such non-Federal requirements would prevent Navigators from fulfilling their statutory and regulatory duties under section 1311(i)(3) of the Affordable Care Act and 45 CFR 155.210(e)(2) and (3) to distribute fair and impartial information concerning enrollment in qualified health plans and to facilitate enrollment

in qualified health plans. Such non-Federal requirements would also prevent non-Navigator assistance personnel subject to § 155.215 from carrying out their required duties under § 155.215(a)(2)(i), which requires that they comply with § 155.210(e)(2). Finally, such non-Federal requirements would also prevent certified application counselors and organizations from fulfilling regulatory duties established under § 155.225(c) to provide information to individuals and employees about the full range of QHP options and insurance affordability programs for which they are eligible, assist individuals and employees to apply for coverage in a QHP through the Exchange and for insurance affordability programs, and help to facilitate enrollment of eligible individuals in QHPs and insurance affordability programs. CMS interprets these statutory and regulatory provisions to require Navigators, non-Navigator assistance personnel subject to § 155.215, and certified application counselors to be prepared to discuss the terms and features of any coverage for which a consumer is or might be eligible, consistent with each consumer's expressed interests and needs, including, for example, plan features such as deductibles, coinsurance and copayments, coverage limitations or exclusions, and/or whether a particular provider or hospital is included within a plan's network. CMS has always interpreted the statute and regulations to prohibit Navigators, non-Navigators, and certified application counselors from steering a consumer toward a particular plan or plans. However, under 45 CFR 155.210(e)(3) and 155.215(a)(2)(i), Navigators and non-Navigator assistance personnel subject to § 155.215 have a duty to ''facilitate selection of a QHP,'' and that duty includes providing information to consumers about the substantive benefits or particular features of a health plan. Similarly, certified application counselors are required to provide this same type of information to consumers, since they have a duty under 45 CFR 155.225(c)(3) to help to facilitate enrollment of eligible individuals in QHPs and insurance affordability programs. We therefore propose that non-Federal requirements that prevent assisters from describing or providing information about the substantive benefits or particular features of a health plan, including comparative information to facilitate a consumer's selection of a plan, would prevent the application of the provisions of title I of the Affordable Care Act within the meaning of section 1321(d) of the Affordable Care Act.

Fourth, we propose to put into regulatory text a position we previously expressed in preamble, that a State or an Exchange must not require that all Navigators be agents or brokers or carry errors and omissions coverage. Section 1311(i)(2)(B) of the Affordable Care Act provides that various types of entities may serve as Navigators, and through § 155.210(c)(2), we established the requirement that in all Exchanges, at least two types of entities, including one community and consumer-focused nonprofit group, must serve as Navigators. Requiring that each Navigator be a licensed agent or broker or carry errors and omissions coverage (which is typically held only by licensed professionals such as agents and brokers) would mean that all Navigators would fall under only one type of entity listed in 155.210(c)(2), specifically, agents and brokers, and would therefore prevent the application of § 155.210(c)(2)(i). In other words, these types of non-Federal requirements would make it impossible for the Exchange in such States to fulfill the Federal requirement that at least two types of entities listed at 155.210(c)(2), including one community and consumer-focused nonprofit group, serve as Navigators. HHS has previously advised (see 77 FR 18310, 18331–32) that such requirements would prevent the application of § 155.210(c)(2) within the meaning of section 1321(d) of the Affordable Care Act; this proposal makes this policy explicit in regulation text.

Fifth, we propose to specify that, in States with an FFE, non-Federal requirements may not, in effect, render ineligible any individuals or entities that the FFE would deem eligible under applicable Federal standards. Such non-Federal requirements would prevent the FFE from implementing the consumer assistance programs that they are required (or authorized) to implement under section 1311(i) of the Affordable Care Act, and 45 CFR 155.205, 155.210, 155.215, and 155.225, consistent with Federal requirements established for those programs.

For example, non-Federal requirements that prohibit Navigators, non-Navigator assistance personnel, or certified application counselors or organizations in an FFE from receiving any consideration, directly or indirectly, from a health insurance issuer offering health insurance coverage in or outside of an Exchange, even if not in connection with the enrollment of individuals into a QHP, go beyond Federal conflict of interest standards set forth in section 1311(i)(4)(A)(i) and (ii) of the Affordable Care Act and §§ 155.210(d)(4), 155.215(a) and 155.225(d)(2) and (4), as interpreted in Federal guidance, and would also go beyond the parallel conflict of interest standards proposed for certified application counselors in our proposed § 155.225(g)(2). For Navigators, section 1311(i)(4)(A)(i) and (ii) of the Affordable Care Act and 45 CFR 155.210(d)(4) together provide that a Navigator shall not be a health insurance or stop loss insurance issuer or receive any consideration directly or indirectly from a health insurance issuer or issuer of stop loss insurance in connection with the enrollment of any qualified individuals or employees of a qualified employer in a qualified health plan or a non-qualified health plan. Under 45 CFR 155.215(a)(2), a set of parallel conflict of interest standards apply in FFEs (including State Partnership Exchanges) to non-Navigator assistance personnel carrying out consumer assistance functions under 155.205(d) and (e), and to non-Navigator assistance personnel in a State Exchange funded through Federal Exchange Establishment grants.[32] For certified application counselors, conflict of interest standards in § 155.225(d)(2) require that each staff member or volunteer seeking certification disclose to the organization, or to the Exchange if directly certified by an Exchange, and to potential applicants, any relationships the certified application counselor or sponsoring agency has with QHPs or insurance affordability programs, or other potential conflicts of interest.[33]

A non-Federal requirement that prohibits consumer assistance entities and individuals from receiving any

[32] For Navigators and non-Navigator assistance personnel subject to 155.215, we have clarified in Federal guidance the scope of these conflict of interest standards. Specifically, conflict of interest standards do not apply to consideration received by a provider to support specific activities, such as the provision of medical services, if the consideration is not connected to the enrollment of individuals or employees in QHPs (78 FR 42831). In addition, Federal regulations do not inherently prohibit Navigators from receiving grants and other consideration from health insurance issuers for activities unrelated to enrollment into health plans (77 FR 18332); For example, entities such as chambers of commerce, that include as a constituent member an association that has members of or lobbies on behalf of the insurance industry, are not prohibited from serving as Navigator grantees (78 FR 42835).

[33] We have clarified in guidance that no conflict of interest should bar an otherwise eligible individual from serving as a certified application counselor, provided that they disclose any conflicts of interest, including but not limited to, any relationships with QHPs or insurance affordability programs, such as Medicaid plans and Medicaid managed care organizations (78 FR 42842).

consideration, directly or indirectly, from a health insurance issuer offering health insurance coverage in or outside of an Exchange, even if not in connection with the enrollment of individuals into a QHP, would prevent an FFE from approving as Navigators, non-Navigator assistance personnel, or certified application counselors and organizations certain entities, including hospitals and community health care clinics, that would otherwise be eligible to serve in those capacities. Further, with respect to the Navigator program, we further note that such a requirement could bar the FFE from awarding a grant to the most qualified applicants as required and therefore might prevent HHS from allocating Federal money in the most appropriate manner.

As another example, if a State with an FFE effectively prohibits an individual or organization from serving as a Navigator, non-Navigator assistance personnel or certified application counselor in the FFE merely because the individual or entity does not maintain its principal place of business in that State, that State could render ineligible individuals or entities that the FFE would deem eligible under applicable Federal standards. Such a standard would therefore prevent the FFE from implementing the consumer assistance programs that it is required (or authorized) to implement, within the meaning of section 1321(d) of the Affordable Care Act. We mean to address here only non-Federal requirements that would interpret ''principal place of business'' as meaning that a business could have only one principal place of business nationwide, in a single State (similar to the legal concept that may be used in determining corporate citizenship for purposes of establishing diversity jurisdiction in Federal court, as required under 28 U.S.C. 1332(c)). States may however, require organizations to register with or be incorporated in the State, which will allow States and Exchanges to work with these organizations to ensure that they are meeting the needs of their consumers.

Sixth and last, we propose to specify that in the FFEs, States may not impose requirements that, as applied or as implemented in the State, prevent the application of Federal standards applicable to Exchanges, Navigators, non-Navigator assistance personnel subject to § 155.215, and certified application counselors and designated organizations. For example, with respect to the Navigator program, if a State with an FFE implemented a requirement that prevented the only Navigator entity operating in the State from continuing to perform its Federally required duties, then such a provision, as applied, would prevent the Exchange from operating a Navigator program in that State as section 1311(i)(1) of the Affordable Care Act and § 155.210(a) require. As another example, a State might impose requirements as mandatory conditions for continuing to perform any applicable Federally required duties, such as additional training or fingerprinting or background checks, which, on their face, we consider as generally permissible, but might also set a deadline for compliance that made it impossible for any of individual or entity approved by the FFE to comply on a timely basis, despite good faith efforts to comply. Under such circumstances these entities and individuals could not fulfill any of their Federally required duties, and the FFE could not operate the consumer assistance programs that it is required (or authorized) to implement under section 1311(i) of the Affordable Care Act, and 45 CFR 155.205, 155.210, 155.215, and 155.225.

We believe these proposals will provide additional clarity regarding HHS's position with respect to whether a non-exhaustive list of specific non-Federal requirements would prevent the application of Federal requirements applicable to Navigators, non-Navigator assistance personnel, and certified application counselors and Exchanges' operation of such programs, within the meaning of section 1321(d) of the Affordable Care Act. In advancing these proposals, HHS's intent is to accord all States the comity that they are due under section 1321(d) of the Affordable Care Act, while preserving the ability of Exchanges, and the individuals and entities approved by Exchanges, to carry out such programs. HHS proposes these provisions to ensure that it can establish and operate the consumer assistance functions of an FFE consistent with the Federal requirements set forth in section 1311(i) of the Affordable Care Act and 45 CFR 155.205, 155.210, 155.215, and 155.225. We solicit comments on all aspects of these proposals.

This proposed rule would also amend some of the current regulatory prohibitions on Navigator conduct. If these proposals are finalized, we expect that they would be effective on the date the final regulations are effective.

Section 155.210(d), among other things, currently prohibits Navigators from being health insurance issuers or stop-loss issuers. We propose to amend section 155.210(d) by adding a provision that would provide that Navigators may not charge consumers for performing any Navigator duties. Our proposal would prohibit Navigators from requesting any form of remuneration from consumers for Navigator duties, such as charging fees, asking for favors in exchange for services provided, or requesting compensation from consumers for Navigator duties. As we previously explained in preamble when existing rules establishing a prohibition on charging fees by certified application counselors were finalized, HHS does not believe that it would be consistent with the purpose of the Navigator program or the consumer assistance, education, and outreach functions under § 155.205(d) and (e), for Navigators to charge consumers for their services. (78 FR 42829) The goal of the Navigator program is to provide consumers with information about and assistance with enrollment in coverage through the Exchange, without cost to the consumer. That is why the Affordable Care Act, at section 1311(i)(1), makes clear that Navigator duties must be funded by the Exchange through grants. We believe that having free assistance available to consumers helps further both the goals of the Navigator program and the Exchanges generally by supporting access for low-income individuals who might previously have been priced out of the health insurance market. We now propose to make this an express prohibition in our regulations, through the addition of a new provision at § 155.210(d)(5). If finalized, this prohibition would also apply to non-Navigator assistance personnel carrying out consumer assistance functions under §§ 155.205(d) and (e) in an FFE and to non-Navigator assistance personnel funded through an Exchange Establishment Grant, since existing rules at § 155.215(a)(2)(i) require that these entities must comply with the prohibitions on Navigator conduct set forth at § 155.210(d). We think the same rationale for the prohibition generally applies in the case of non-Navigator personnel. This proposal would also align the Navigator and non-Navigator assistance personnel provisions with the similar provision applicable to certified application counselors in existing § 155.225(g).

Our proposal would not prevent Navigators from charging for other, non-Navigator-related services the organization may offer, given that section 1311(i)(2) of the Affordable Care Act and implementing regulations at § 155.210(c)(2) allow for various commercial entities or associations to become Navigators.[34] We do not intend

[34] Specifically, section 1311(i)(2)(B) and § 155.210(c)(2) provide that Navigator entities may

to prevent a Navigator entity or individual Navigators from pursuing the normal course of their non-Navigator-related business or established non-Navigator-related programs. However, Navigators would not be permitted to solicit customers for their other, non-Navigator-related services in connection with their Navigator duties. For example, a hospital conducting outreach and education events as a Navigator would not be permitted to use these events as opportunities to solicit new patients.

We also propose to amend § 155.210(d) to provide that Navigator organizations would be prohibited from compensating individual Navigators on a per-application, per-person assisted, or per-enrollment basis. We believe that such practices create adverse incentives that may result in enrollment errors or even improper conduct on the part of the Navigator, such as favoring consumers who take less time to assist than other consumers, or pressuring consumers to make quick decisions about their health coverage, rather than ensuring that they are fully informed about the full range of their options. Additionally, such a compensation methodology is inconsistent with the statutory and regulatory scheme for Navigators. We request comment on whether this proposal would negatively affect existing Navigator programs, including whether it would present implementation challenges for these programs if it becomes effective before November 15, 2014.

The duties of a Navigator under section 1311(i)(3) of the Affordable Care Act and § 155.210(e) are not limited to facilitating selection of a QHP. Navigators' duties also include conducting public education activities; distributing fair and impartial information about qualified health plans and advance payments of the premium tax credit and cost-sharing reductions; providing appropriate referrals for consumers with complaints, questions, or grievances about their health plan, coverage, or a determination under such plan or coverage; and providing information in a manner that is culturally and linguistically appropriate and accessible to people with disabilities. We believe that compensating Navigators based on the number of successful applications or enrollments may create disincentives to perform the full spectrum of required duties. To discourage improper conduct and ensure that Navigators fully perform each of their required duties, we propose to prohibit such compensation arrangements. Under the proposal, Navigators would be permitted to pay employees on a salaried basis, on a per-hour basis, or any other way that is not tied to the numbers of consumers who apply or enroll successfully with the Navigator's assistance. Because § 155.210 applies to all Navigators, including those in States with State Exchanges, this prohibition would apply to Navigators in all States. We seek comment on this proposal and alternatives that build in rewards for performance without the unintended consequences previously described.

As with Navigators, we believe it is important that non-Navigator assistance personnel authorized under § 155.205(d) and (e) in FFEs and in State Exchanges if funded through section 1311(a) Exchange Establishment grants focus on providing full and accurate information rather than on meeting quotas. Because § 155.215(a)(2) applies the prohibitions on certain conduct established for Navigators in § 155.210(d) to non-Navigator assistance personnel in FFEs, State Partnership Exchanges, and in State Exchanges if funded with section 1311(a) Exchange Establishment grants, these prohibitions on Navigator conduct would also apply to these non-Navigator assistance personnel, and would help decrease the risk of creating adverse incentives that could potentially lead to improper conduct.

In § 155.210(d)(7), we propose that Navigators be prohibited from providing gifts to applicants or potential enrollees as an inducement for application assistance or enrollment, including gift cards or cash, unless they are of nominal value. We propose to define nominal value as a cash value of $15 of less, or an item worth $15 or less, based on the retail purchase price of the item regardless of the actual cost. This definition would be consistent with the definition used for nominal value in connection with prohibitions applicable to the marketing of Medicare Advantage and Medicare Part D plans. (See 73 FR 54236) CMS proposes that it would update the definition of nominal value in guidance as necessary to account for inflation and other relevant factors. We seek comment on how nominal value should be defined in this context.

We also propose in § 155.210(d)(7) to prohibit Navigators from providing any applicant or potential enrollee with promotional items, that is, items that market or promote the products or services of a third party. There are several reasons we are proposing these prohibitions. First, providing cash or gifts, other than those of nominal value, would not be an appropriate use of Navigator grant funds, which are intended to be used to support a Navigator's outreach, education, and application assistance activities. In addition, section 1311(d)(5)(B) of the Affordable Care Act prohibits an Exchange from utilizing any funds intended for the administrative and operational expenses of the Exchange, which would include the funds used to pay for the Exchange's grants to Navigators, to pay for promotional giveaways. Second, the provision of cash or gifts to potential applicants or enrollees may shift the focus of a Navigator's interaction with a potential applicant or enrollee away from its duties to provide information and services in a fair, accurate, and impartial manner and to facilitate selection of a QHP, in appropriate circumstances. Offering cash or gifts to potential applicants or enrollees could also cause some consumers to approach Navigators for reasons other than the receipt of information and Exchange application assistance. Third, providing to applicants or potential enrollees any promotional items that market or promote the products or services of a third party would be in conflict with the Navigator's duty to be fair and impartial in its dealings with consumers, since it introduces a third party's interests and marketing goals into the relationship between a Navigator and the consumers they serve. We believe that the duty of a Navigator to provide information and services in a fair, accurate and impartial manner make it inappropriate for a Navigator to engage in activities that give the appearance of promoting or marketing the products or services of third party business interests when it is performing Navigator activities and services.

We are also proposing in § 155.210(d)(8) and (9) new standards for Navigators with respect to their contacts and interaction with consumers, and the outreach and marketing practices they use when offering their services. In § 155.210(d)(8), we propose to prohibit Navigators from going door-to-door or using other unsolicited means of direct contact to help consumers fill out applications or enroll in health coverage, although these proposed rules would not prohibit a Navigator from going door-to-door to provide consumers with educational or outreach materials. This would include making cold calls to a consumer to provide

include, among others, trade, industry, and professional associations; commercial fishing industry organizations; ranching and farming organizations; community and consumer-focused nonprofit groups; chambers of commerce; unions, resource partners of the Small Business Administration; and licensed agents and brokers.

application or enrollment assistance, without the consumer initiating the contact. In § 155.210(d)(9), we propose to prohibit Navigators from making robocalls, or calls that use an automatic telephone dialing system or an artificial or prerecorded voice, when initiating contact with consumers. We believe that these standards will ensure that Navigator practices are protective of the privacy and security interests of the consumers they serve, and will also provide important guidance and peace of mind to consumers, when they are faced with questions or concerns about what to expect in their interactions with individuals offering Exchange assistance. We seek comment about whether any of the activities and strategies that we propose to prohibit for Navigators are appropriate and consistent with section 1311(i) of the Affordable Care Act.

For the same reasons, the proposed standards established in § 155.210(d)(7), (8) and (9) would also apply to non-Navigator assistance personnel in FFEs, State Partnership Exchanges, and in State Exchanges if funded with section 1311(a) Exchange Establishment grants, through the reference in § 155.215(a)(2), which applies the prohibitions on conduct established for Navigators in § 155.210(d) to these types of non-Navigator assistance personnel.

In addition, we propose to amend paragraph (e), which describes the duties of a Navigator, by adding a new paragraph (e)(6) that would require Navigators to provide applicants and enrollees seeking their assistance with notice of the functions and responsibilities of Navigators, to obtain written authorization from those they are assisting, in a form determined by the Secretary, and to retain these authorization forms. We propose that Exchanges must establish a reasonable retention period for maintaining this authorization, and that in FFEs the retention period would be three years, unless a different retention period has already been provided in the administrative requirements for CMS grant and cooperative agreement recipients at 45 CFR 92.42 and 45 CFR 74.53 or in other applicable Federal law. We have considered specifying a retention period for all Exchanges, including specifying either a minimum retention period or a specified retention period ranging from three to five years, and solicit comments on the best approach. We also propose that consumers would be able to revoke this authorization at any time. These provisions would ensure that all consumers receive adequate notice of the role and duties of a Navigator and that all consumers give their informed consent before sharing any personally identifiable information with the Navigator.

For the same reasons, we also propose to add a new § 155.215(g) applying these authorization provisions to non-Navigator assistance personnel authorized under § 155.205(d) and (e) in FFEs, State Partnership Exchanges, and in State Exchanges if funded through section 1311(a) Exchange Establishment grants.

Finally, we propose to add a new § 155.210(e)(7), requiring Navigators to maintain a physical presence in their Exchange service area, so that face-to-face assistance can be provided to applicants and enrollees. Under this proposal, a Navigator would not be required to have its principal place of business in the State in which Navigator services are being provided. For the same reasons, we also propose to add a new § 155.215(g), to make the same provisions proposed for Navigators under § 155.205(e)(7), as outlined above, also applicable to non-Navigator assistance personnel subject to § 155.215.

We solicit comments on all aspects of these proposals.

c. Certified Application Counselors (§ 155.225)

Section 1321(a)(1) of the Affordable Care Act directs and authorizes the Secretary to issue regulations setting standards for meeting the requirements under title I of the Affordable Care Act, with respect to, among other things, the establishment and operation of Exchanges. Pursuant to this authority, the Secretary issued § 155.225, which establishes the certified application counselor program as a consumer assistance function of the Exchange separate from and in addition to the functions described in §§ 155.205(d) and (e), 155.210, and 155.215.

Section 155.225(b) establishes standards for the designation of a certified application counselor organization by an Exchange. We propose to add to these designation standards a new § 155.225(b)(iii) which would establish the requirement that certified application counselor organizations maintain a physical presence in the Exchange service area, so that face-to-face assistance would be provided to applicants and enrollees. This proposed requirement would also facilitate consumer protection efforts by a State. We note that, under this proposal, an entity designated as a certified application counselor organization would not be required to have its principal place of business in the State in which certified application counselor services are being provided by the organization.

Section 155.225(d) currently sets forth CAC certification standards, including the successful completion of Exchange-approved training. We propose to amend 45 CFR 155.225(d) to propose, in a new paragraph (d)(7), that individual certified application counselors would also be required to successfully complete Exchange-approved recertification training and be recertified on at least an annual basis. This proposal would ensure that certified application counselors keep up to date with current Exchange requirements and that they remain appropriately trained in order to best serve consumers. Under this proposal, each Exchange would establish its own recertification standards consistent with these requirements.

Existing § 155.225(f)(2) provides that certified application counselor organizations, or, if applicable, an Exchange that certifies staff members or volunteers of organizations directly, must establish procedures to ensure that consumers provide authorization before a certified application counselor has access to the consumer's personally identifiable information, and that the organization or application counselor must maintain a record of the authorization. We propose to revise this paragraph to clarify the retention period of the authorization form. We propose that Exchanges would be required to establish a reasonable retention period for maintaining this authorization, and specify that in FFEs, the retention period would be three years. We based this period on the retention period in the current administrative requirements for CMS grant and cooperative agreement recipients at 45 CFR 92.42 and 45 CFR 74.53. Because certified application counselors perform similar duties to Navigators and are subject to similar privacy and security requirements, we believe a similar retention period should apply, even though certified application counselors would not necessarily be HHS grantees. We have considered specifying a retention period for all Exchanges, including specifying either a minimum retention period or a specified retention period ranging from three to five years, and solicit comments on the best approach.

Under existing regulations at 45 CFR 155.225(g), certified application counselors ''may not impose any charge on applicants for application or other assistance related to the Exchange.'' This was intended as a strict prohibition on the imposition of charges or fees by

certified application counselors. We now propose to amend § 155.225(g) to substitute ''must not'' for ''may not,'' so that there can be no doubt about the intent of this requirement.

We also propose to amend 45 CFR 155.225(g) to reorganize and renumber this section and to propose several additional standards for certified application counselors. We propose that what is now § 155.225(g) should be renamed as a section establishing standards related to ''fees, consideration, solicitation and marketing.'' We propose to redesignate amended § 155.225(g) as § 155.225(g)(1) and add the new prohibitions in this amended section to new §§ 155.225(g)(2) through (6).

In § 155.225(g)(2), we propose to expressly prohibit certified application counselors from receiving consideration, directly or indirectly, from health insurance issuers or stop loss issuers in connection with the enrollment of consumers in qualified health plans (QHPs) or non-QHPs. This proposed new requirement would align with the same standards of conduct applicable to Navigators and certain non-Navigator assistance personnel under 45 CFR 155.210(d)(4) and 155.215(a)(2)(ii), and would apply to individual certified application counselors as well as to the organizations that have been designated as certified application counselor organizations. The reason for this proposal is that, in our view, receiving commissions or other consideration for enrollment in QHPs or non-QHPs is not consistent with the purpose and scope of certified application counselor program activities. Under § 155.225(c), certified application counselors must act in the best interest of consumers they assist, inform consumers about the full range of health coverage options and affordability programs for which they are eligible, and help to facilitate enrollment of eligible individuals in QHPs and insurance affordability programs. As such, neither an individual certified application counselor nor his or her designated organization should have any personal financial incentive to recommend a particular health coverage option.

Under this proposed amendment, while an Exchange could certify individuals as certified application counselors who are agents or brokers, and a designated certified application counselor organization similarly could certify staff or volunteers as certified application counselors who are agents or brokers, those individuals and the certified application counselor organization itself would not be permitted to receive compensation from health insurance or stop loss insurance issuers for enrolling individuals in QHPs or non-QHPs. Under this proposed amendment, in other words, certified application counselors and the certified application counselor designated organizations with which they are affiliated would not be strictly prohibited from being agents and brokers, as long as they do not receive any consideration in connection with enrollment of a consumer in a QHP or non-QHP. Therefore, agents and brokers who sell lines of insurance other than health insurance or stop loss insurance (for example, auto, life, and homeowners' policies) would not be prohibited from receiving consideration from the sale of those other lines of insurance while serving as a certified application counselor, provided they disclose the relationship to the consumer receiving assistance. We note that § 155.225(d)(2) requires a certified application counselor to disclose any relationship he or she or the sponsoring certified application counselor agency has with QHPs or insurance affordability programs, ''or other potential conflicts of interest,'' to the appropriate parties outlined in that provision. Consistent with the interpretation we advanced with respect to the Navigator program, we interpret ''other potential conflicts of interest'' in this context to include any private or personal interest sufficient to influence, or appear to influence, the objective exercise of a certified application counselor's or certified application counselor organization's official duties (see 77 FR 18330–31). In an FFE, we interpret ''other potential conflicts of interest'' to encompass any relationship with a certified application counselor which may have an influence on the information or scope of assistance being provided to the consumer during the course of the certified application counselor's assistance or any relationship that would confer benefits or indirect financial gain that could potentially compromise a certified application counselor's ability to act in the best interests of the consumer.

We also propose to add a new § 155.225(g)(3), which would prohibit individual certified application counselors from being compensated on a per-application, per-individual-assisted, or per-enrollment basis. As with Navigators and non-Navigator assistance personnel, we believe that in order for application and enrollment assistance to be effective and appropriate for each consumer, per-enrollment or per-application incentives that might encourage certified application counselors to rush through sessions with consumers, or not to provide them with complete information or enough time to make complex and important health coverage decisions, should not be permitted. Such incentives would impede a certified application counselor's ability to act in the best in the best interests of consumers, as they are required to do under § 155.225(d)(4). This proposal would also help streamline requirements for these three types of assistance personnel. We seek comment on this proposal and alternatives that build in rewards for performance without the unintended consequences previously described.

We also propose to add a new paragraph (g)(4) to prohibit certified application counselors from providing applicants or potential enrollees any gifts, including gift cards or cash, unless they are of nominal value. As we also proposed in our earlier discussion with respect to Navigators, we propose to define nominal value consistent with the definition used for nominal value in connection with prohibitions applicable to the marketing of Medicare Advantage and Medicare Part D plans. (See 73 FR 54236) Specifically, nominal value would be defined as a cash value of $15 of less, or an item worth $15 or less, based on the retail purchase price of the item regardless of the actual cost. CMS proposes that it would update the definition of nominal value in guidance as necessary to account for inflation and other relevant factors. We seek comment on how nominal value should be defined in this context. We also propose in this section to prohibit certified application counselors from providing applicants and potential enrollees with promotional items that market or promote the products or services of a third party, in connection with, or as an inducement for application assistance or enrollment. We are proposing this prohibition for certified application counselors for similar reasons to those expressed above in connection with the prohibition in the Navigator and non-Navigator assistance programs. We are concerned that the provision of cash or gifts to potential applicants or enrollees might interfere with the duties of the individual providing assistance to that applicant or potential enrollee; and in the case of a certified application counselor, might shift the focus of a certified application counselor's interaction with a potential applicant or enrollee away from the certified application counselor's duties to act in the consumer's best interest and to

facilitate selection of a QHP. In addition, if a certified application counselor provides promotional items that market or promote the products or services of a third party, this too would conflict with the duty of a certified application counselor to act in the best interest of the consumer, since it introduces a third party's interests and marketing goals into the relationship between the certified application counselor and the consumer they are assisting and may also cause consumers to approach certified application counselors for reasons unrelated to the receipt of information and Exchange application assistance.

In proposed section § 155.225(g)(5), we would establish a standard for certified application counselors that would prohibit them from soliciting consumers for application or enrollment assistance by going door-to-door to provide this assistance, or to use other unsolicited means of direct contact, including calling a consumer, to provide application or enrollment assistance without the consumer initiating the contact. We also propose in a new § 155.225(g)(6) to prohibit certified application counselors from making robocalls to consumers, such as those that are initiated to a consumer using an automatic telephone dialing system or an artificial or prerecorded voice. As we explained earlier in this preamble in relation to the parallel proposed standard for Navigators and non-Navigator assistance personnel, we believe restrictions on door-to-door solicitation and cold-calling would ensure that certified application counselors use practices that are protective of the privacy and security interests of the consumers they serve, and give those consumers the greatest peace of mind. We also believe that these standards would provide important guidance to consumers about what to expect in their interactions with certified application counselors. As with the parallel proposal for Navigators and non-Navigator assistance personnel, we clarify that this proposal would not prohibit a certified application counselor from going door-to-door to provide consumers with information about the availability of application assistance services, or other educational or outreach materials,[35] We seek comment about whether any of the activities and strategies that we propose to prohibit are appropriate and consistent with Federal requirements.

We solicit public comments on all aspects of these proposals.

d. Payment of Premiums (§ 155.240)

There are a limited number of circumstances in which an individual will be enrolled in a qualified health plan through the Exchange for less than a full month. In particular, these include situations in which a child is born, adopted, placed for adoption, or placed for foster care, or when an individual voluntarily terminates enrollment. Currently, there are no Federal standards for how premiums are prorated in these limited situations. In order to provide flexibility for Exchanges to establish a standardized methodology for partial month premiums or rely on issuers to prorate premiums in accordance with State law and issuer policies, we propose in § 155.240(e) that the Exchange may establish one or more standard processes for premium calculation. Further, consistent with the methodology finalized for the FF–SHOP at § 155.705(b)(4)(ii)(B) in the 2015 Payment Notice, in paragraph (e)(1), we propose that for the Federally-facilitated Exchange, the premium for coverage lasting less than one month must equal the product of the premium for one month of coverage divided by the number of days in the month and the number of days for which coverage is being provided in the month described in paragraph (e)(1)(i) of this section. Adopting this policy for the Federally-facilitated Exchange will address situations in which enrollees have mid-month changes in enrollment. For example, the proposed policy will also address mid-month births or adoptions and prevent these enrollees from paying for coverage on days they were not enrolled in coverage. In addition, the proposed policy will eliminate issues where consumers who transition to Medicaid are charged premiums for days on which they are enrolled in Medicaid. Although it is not a new occurrence for consumers to transition from private health insurance to Medicaid without the benefit of premiums that are prorated precisely to the last day of private health insurance and the first day of Medicaid coverage, we anticipate that the expansion of private health insurance through the Exchange will increase the number of individuals who will be able to move between coverage types. We believe that the proposed policy will benefit this broadening group. This policy will also be consistent with proposed 26 CFR 1.36B–3(d)(2), which specifies that when coverage is terminated before the last day of the month, and the issuer reduces or refunds a portion of the monthly premium, the premium tax credit is adjusted using the same methodology described in this regulation for the FF–SHOP. Aligning with the premium tax credit calculation will provide a cohesive policy across the Federally-facilitated Exchange for handling mid-month changes in enrollment, and will simplify the calculation of net premiums. Finally, the proposed Federally-facilitated Exchange policy will protect consumers and prevent them from paying premiums for days in which they are not enrolled in coverage. We intend to work closely with QHP issuers to implement this provision in the Federally-facilitated Exchange as soon as is reasonably possible.

We seek comment on this proposed amendment.

e. Privacy and Security of Personally Identifiable Information (§ 155.260)

We propose amending § 155.260(g) to add a reference to § 155.285, which is being proposed as part of this proposed rule. Section 155.285 proposes to specify the grounds for imposing civil money penalties, the notice required to be given to a person when a civil money penalty is assessed, and factors to be used to determine the amount of civil money penalties assessed, as well as some aspects of the process for imposing civil money penalties. We propose this addition to § 155.260(g) to clearly link these two regulatory provisions and to ensure that readers fully understand how civil money penalties will be assessed for any improper use or disclosure of information.

f. Bases and Process for Imposing Civil Money Penalties for Provision of False or Fraudulent Information to an Exchange or Improper Use or Disclosure of Information (§ 155.285)

Section 1411 of the Affordable Care Act sets forth the procedures for determining eligibility for Exchange participation, premium tax credits and reduced cost-sharing, and the individual responsibility exemptions. Section 1411(b) specifies minimum information required to be provided by an applicant, including name, address, date of birth, social security number (if applicable, based on the applicant's citizenship or immigration status), and immigration status. For applicants seeking eligibility for advance payment of the premium tax credit or cost sharing reductions, section 1411(b) also specifies that the applicant must provide information regarding income and family size, and information regarding employer sponsored coverage.

[35] We note that certified application counselors are not required to perform outreach activities. (see 78 FR 42826).

For applicants for an exemption from the shared responsibility payment for failure to maintain minimum essential coverage, section 1411(b) also requires submission of information relevant to the specific exemption sought by the applicant. In addition, section 1411(g) of the Affordable Care Act also requires that any person who receives information provided by an applicant under section 1411(b), whether directly from the applicant, by another person at the request of the applicant, or from a Federal agency may use the information only for the purposes of, and to the extent necessary in, ensuring the efficient operation of the Exchange. Finally, section 1411(h) specifies the civil money penalties which can be imposed for the provision of false or fraudulent information as well as for the improper use and disclosure of information. In § 155.285, we propose to regulate on this statutory authority to impose civil money penalties for the provision of false and fraudulent information in violation of section 1411(h)(1) of the Affordable Care Act and the improper use and disclosure of information in violation of section 1411(g) of the Affordable Care Act.

In § 155.285(a), in accordance with the grounds on which penalties may be imposed as specified in section 1411(h) of the Affordable Care Act, we propose the circumstances in which HHS may impose civil money penalties (CMPs) on a person if HHS determines that the person has provided false or fraudulent information as prohibited by section 1411(h)(1) or improperly used or disclosed information in violation of section 1411(g). We want to ensure that any person who does not comply with relevant statutory and regulatory provisions, which limit the ways in which information provided by an applicant or from a Federal agency can be used, may be appropriately penalized. HHS may impose CMPs for three specific types of actions related to the provision of false or fraudulent information and the improper use of information. HHS intends to work in collaboration with States to oversee, monitor, and enforce compliance with § 155.285 in order to protect consumers, avoid duplication of efforts, and provide consistent enforcement practices.

Section 1411(b) specifies the information that is required to be provided by an applicant for enrollment in a QHP offered through an Exchange in the individual market, for premium tax credits or cost sharing reductions, or for an exemption from the individual shared responsibility payment based on the individual's status as a member of an exempt religious sect or division, as an Indian, or as an individual eligible for a hardship exemption, or based on the individual's lack of affordable coverage or the individual's status as a taxpayer with household income less than 100 percent of the poverty line. In § 155.285(a)(1)(i), we propose that if any person (as defined at proposed § 155.285(a)(2)) fails to provide correct information under section 1411(b) of the Affordable Care Act and such failure is attributable to negligence or disregard of any regulations of the Secretary, the person may be subject to a CMP. For purposes of this subsection, the terms ''negligence'' and ''disregard'' have the same meaning as those in section 6662 of the Code. Thus, we propose that ''negligence'' includes any failure to make a reasonable attempt to provide accurate, complete, and comprehensive information, and the term ''disregard'' includes any careless, reckless, or intentional disregard for any rules or regulations of the Secretary. Under proposed § 155.285(a)(1)(i), if a person fails to make a reasonable attempt to provide accurate, complete and comprehensive information and as a result provides incorrect information, the person may be subject to a CMP.

Second, in § 155.285(a)(1)(ii), we propose that if a person knowingly and willfully provides false or fraudulent information under section 1411(b) of the Affordable Care Act, the person may be subject to a CMP. Here, HHS must find that a person provided false or fraudulent information ''knowingly and willfully.'' This provision aims to ensure that any person who intentionally provides information required under section 1411(b) of the Affordable Care Act that the person knew to be false could be subject to a CMP. In addition, if consumer assistance personnel such as an agent, broker, Navigator, certified application counselor, or non-Navigator assistance personnel, were to in some manner directly provide false or incorrect information required under section 1411(b), they may also be subject to a CMP. If consumer assistance personnel subject to § 155.206 of this subpart were to engage in this type of behavior, we propose that it should be left to HHS' discretion to determine whether it was appropriate to impose a CMP under this regulation, or under § 155.206 of this subpart, if applicable. We note that § 155.206 would only apply to Navigators, certified application counselors, and non-Navigator assistance personnel in a Federally-facilitated Exchange and that violations of § 155.285 may not necessarily also constitute violations of § 155.206. In such instances where consumer assistance personnel may be subject to a CMP under both §§ 155.206 and 155.285, we have considered specifying that HHS may only impose a CMP under § 155.285. However, we propose that it should be left to HHS' discretion to determine whether it would be appropriate to impose a CMP under § 155.206 or § 155.285. We seek comment on this proposal and whether any alternative approaches should be used.

Third, in § 155.285(a)(1)(iii), we propose that if a person knowingly and willfully uses or discloses information in violation of Affordable Care Act section 1411(g), the person may be subject to a CMP. Section 1411(g) of the Affordable Care Act specifies that any person who receives information required to be provided by an applicant, whether the person receives the information directly or by another person at the request of the applicant, or receives information from a Federal agency that has been verified as being consistent or inconsistent with the records of that Federal agency, may use the information only for the purposes of, and to the extent necessary in, ensuring the efficient operation of the Exchange. We will refer to the personally identifiable information (PII) described in the previous sentence as ''Exchange PII'' for the purposes of this section. Section 1411(g) of the Affordable Care Act also specifies that any person who receives Exchange PII may not disclose the information to any other person except as provided in section 1411 of the Affordable Care Act. Section 155.260(a)(1) and (2) implement section 1411(g) of the Affordable Care Act by specifying that an Exchange may only use or disclose Exchange PII to carry out the functions described at § 155.200 or to carry out additional functions which the Secretary has determined ensure the efficient operation of the Exchange and for which the individual has provided consent for his or her information to be so used or disclosed.

In § 155.285(a)(1)(iii)(A) through (C), we propose types of activities that would be in violation of section 1411(g) of the Affordable Care Act. Because § 155.260 further describes the limitations on the use and disclosure of Exchange PII, we propose that any use or disclosure of Exchange PII that violates relevant privacy and security standards established by the Exchange pursuant to § 155.260 of this subpart may constitute a violation of section 1411(g) of the Affordable Care Act. We also propose that any other use or disclosure that has not been determined by the Secretary to ensure the efficient

operation of the Exchange be compliant with section 1411(g)(2)(A) of the Affordable Care Act pursuant to § 155.260(a), and which is not necessary to carry out a function described in a contract with a non-Exchange entity executed pursuant to § 155.260(b)(2) of this subpart, may constitute a violation of section 1411(g) Affordable Care Act. More specific examples of activities that would violate section 1411(g) Affordable Care Act include a person selling lists of Exchange PII belonging to individuals who apply for enrollment or enroll in an Exchange qualified health plan, or a non-Exchange entity using the PII of individuals who sought enrollment in an Exchange qualified health plan to market products or services to those individuals. We note that without the express, specific consent of the consumer for their PII to be used for marketing purposes, use of Exchange PII for marketing purposes is prohibited by section 1411(g). In addition, we note that any person who obtains specific consent from an applicant or enrollee to use PII for marketing purposes must clearly inform the applicant or enrollee that the marketing activities have no relationship to or bearing on an eligibility determination for or enrollment in the Exchange. To the extent any person plans to obtain such consent to market products to Exchange applicants and enrollees, the person should be prepared to provide proof of consent upon request by the agency during the course of the agency's normal oversight activities.

In § 155.285(a)(2), we propose a definition of the term ''person.'' We propose that for purposes of this regulation, the term ''person'' should be defined to include, but should not be limited to, all individuals; corporations; Exchanges; Medicaid and CHIP agencies; other entities gaining access to PII submitted to an Exchange to carry out additional functions which the Secretary has determined ensure the efficient operation of the Exchange pursuant to 155.260(a)(1); and non-Exchange entities as defined in § 155.260(b) of this subsection, which includes agents, brokers, Web-brokers, QHP issuers, Navigators, certified application counselors, in-person assistors, and other third party contractors. The term ''person'' would also include the employees of the aforementioned entities. We propose to define the term very broadly because there are several different types of individuals and entities that could engage in the actions enumerated in § 155.285(a)(1), and we hope to ensure that all such individuals and entities are aware of the penalties they could incur. We seek comment on these proposals.

In § 155.285(b), we propose the factors that HHS may take into consideration when determining the amount of CMPs to impose. We propose in § 155.285(b)(1) that HHS may take into account factors that include, but are not limited to, the following factors: the nature and circumstances of the conduct including the number of individual violations; the severity of the violations; the person's history with the Exchange, including any prior violations that would indicate whether the violation is an isolated occurrence or represents a pattern of behavior; the length of time during which the violation(s) occurred; the number of individuals affected or potentially affected; and the extent to which the person received compensation or other consideration associated with the violation. We also propose in § 155.285(b)(2) that HHS take into account the nature and extent of the harm resulting from the action, including the number of individuals affected; whether the violation resulted in financial harm; whether there was harm to an individual's reputation; whether the violation hindered or could have hindered an individual's ability to obtain health care coverage; the actual or potential impact of the provision of false or fraudulent information or of the improper use or disclosure of information; and whether any person received a more favorable eligibility determination for enrollment in a QHP or insurance affordability program, such as greater advance payment of the premium tax credits or cost-sharing reduction than he or she would be eligible for if the correct information had been provided.

In § 155.285(b)(3), we implement the reasonable cause exception of section 1411(h)(1)(A)(ii) of the Affordable Care Act pursuant to which no penalty will be imposed under § 155.285(a)(1)(i) if HHS determines that there was a reasonable cause for the failure to provide correct information required on an Exchange application and that the person acted in good faith. We feel that this reasonable cause exception is very important to ensure that no CMP may be imposed for a situation in which a person was acting in good faith.

In § 155.285(c), we propose maximum penalties for each different type of violation, in accordance with the statutory limitations set forth in section 1411(h) of the Affordable Care Act. Section 155.285(c)(1) addresses maximum penalties for provision of incorrect information, where such failure is attributable to negligence or disregard of any rules or regulations of the Secretary, and for knowing and willful provision of false or fraudulent information in violation of section 1411(h) of the Affordable Care Act. We propose that the maximum penalty may be imposed on a per application basis, as defined at proposed § 155.285(c)(1)(iii), during a single ''plan year.'' We propose to use the definition for ''plan year'' at § 155.20, where a ''plan year'' means a consecutive 12 month period during which a health plan provides coverage for health benefits and which may be a calendar year or otherwise. In § 155.285(c)(1)(i), we propose that any person who fails to provide correct information as specified in § 155.285(a)(1)(i) may be subject to a maximum CMP, as specified in section 1411(h)(1)(A)(i) of the Affordable Care Act, for each ''application'' on which the person fails to provide correct information. In § 155.285(c)(1)(ii), we propose that any person who knowingly and willfully provides false information as specified in § 155.285(a)(1)(ii) may be subject to a maximum CMP, as specified in section 1411(h)(1)(A)(i) of the Affordable Care Act, for each application on which the person knowingly and willfully provides false information. Since we are proposing that we would impose a penalty on a plan year basis, if a person were to elect to use the same information which he or she entered on an initial application for the subsequent plan year, and the person had knowingly and willfully entered false information on an application as described in § 155.285(c)(1)(ii), the person may be subject to two CMPs, each up to the maximum CMP specified in section 1411(h)(1)(A)(i) of the Affordable Care Act, based on the provision of false information for two plan years.

In § 155.285(c)(1)(iii), we propose that for the purposes of this subsection, an ''application'' is defined as a submission of information whether submitted through an online portal, over the telephone through a call center, or through a paper submission process. This submission of information is provided in relation to any of the following: An eligibility determination; an eligibility redetermination based on a change in an individual's circumstances; or an annual eligibility redetermination for either enrollment in a qualified health plan, for premium tax credits or cost sharing reductions, or for an exemption from the individual shared responsibility payment. By proposing this definition of application, we intend for each submission of information, regardless of the means of

submission, to be considered a distinct application. For example, where a person submits an initial application for enrollment in a QHP, and later updates his or her information to reflect a change in circumstance, we propose that this person would have submitted two applications. We anticipate that there may be situations where a person submits a false piece of information on an initial application for coverage, and this false information could be seen as re-submitted on a second application in the same plan year. We propose to provide HHS flexibility in such situations as that described above so that HHS may, in its discretion, and depending on the particular facts of the case, determine the number of incorrect pieces of information submitted, and therefore determine the appropriate penalty for this situation. We solicit comment on this proposal as well as on alternate methods through which HHS could determine the appropriate amount of penalties to impose.

In § 155.285(c)(2), we propose that any person who knowingly or willfully uses or discloses information as specified in § 155.285(a)(1)(iii) may be subject to a CMP. We propose in § 155.285(c)(2)(i) that a person may be subject to a maximum CMP, as specified in section 1411(h)(2) of the Affordable Care Act, for each use or disclosure described in paragraph (a)(1)(iii) of this section, per use or disclosure. We also propose to define, in § 155.285(d)(2)(ii) that a use or disclosure includes one separate use or disclosure of a single individual's PII that the person against whom a civil money penalty may be imposed has made. For example, if an agent were to sell a list of 100 consumers' names and other identifiable information to another entity, the proposed definition of a use or disclosure would mean that HHS could impose a total of 100 CMPs, each with a maximum penalty of the amount specified in section1411(h)(2) of the Affordable Care Act because the agent had disclosed the PII of 100 individuals. In § 155.285(c)(3), we also propose that these penalties may be imposed in addition to any other penalties that may be prescribed by law.

In § 155.285(d), we propose standards for a notice of intent to issue a CMP that HHS must send to the person against whom the CMP is being imposed. We propose that the written notice will be either hand delivered, sent by certified mail, return receipt requested, or sent by overnight delivery service with signature upon delivery required. In § 155.285(d)(1)(i)–(viii), we propose eight elements that must be included in the notice. The elements which must be included are as follows: (1) A description of the findings of fact regarding the violations with respect to which the CMP is proposed; (2) the basis and reasons why the findings of fact subject the person to a penalty; (3) any circumstances described in § 155.285(c) that were considered in determining the amount of the proposed penalty; (4) the amount of the proposed penalty; (5) an explanation of the person's right to a hearing under any applicable administrative hearing process; (6) a statement that the failure to request a hearing within 60 calendar days after the date of the notice permits the assessment of the proposed penalty; and (7) information explaining how to file a request for a hearing and the address to which the hearing request must be sent. We propose that the person may request a hearing before an ALJ on the proposed penalty by filing a request pursuant to the procedure that will be outlined in the notice of intent to issue a penalty that the person receives.

In § 155.285(e), we propose the consequences for a person who fails to request a hearing in a timely manner. We propose that HHS may assess the proposed CMP 60 calendar days after the date of issuance printed on the notice of intent to issue a CMP. In § 155.285(e)(1), we propose that HHS will notify the person in writing of any penalty that has been imposed, the means by which the person can satisfy the penalty, and the date on which the penalty is due. We propose in § 155.285(e)(2) that a person has no right to appeal a penalty with respect to which the person has not timely requested a hearing. We believe 60 days is a sufficient period for a person to request a hearing. We seek comment on these proposals.

In § 155.285(f), we propose to use the existing appeals framework in regulation at 45 CFR Part 150, Subpart D. We propose to exclude §§ 150.461, 150.463, and 150.465 based on their lack of applicability to § 155.285. In § 155.285(g), we propose that CMS and OIG will share enforcement authority to impose the CMPs in § 155.285. In § 155.285(g)(1), we propose that CMS may impose CMPs for any of the violations at § 155.285(a). In § 155.285(g)(2), we propose that OIG may impose CMPs for violations specified at § 155.285(a)(1)(ii) and (iii) in place of imposition of penalties by CMS. We believe OIG has the investigative capabilities which would be necessary to determine whether a person performed an action knowingly and willfully, a finding which would be required before imposing a CMP for the violations specified at § 155.285(a)(1)(ii) and (iii). In light of our proposal to allow OIG to impose CMPs for violations specified at § 155.285(a)(1)(ii) and (iii), we anticipate that OIG would amend its regulations at part 1003 of Chapter V of title 42 to encompass the standards set forth in this section. We seek comment on the proposed use of the regulatory framework for appeals at 45 CFR Part 150, Subpart D and on the question of whether any other regulatory framework used by HHS for appeals presents a more appropriate framework.

In § 155.285(h), we propose a settlement authority provision to ensure CMS is able to settle any issue or case described in § 155.285(a) if necessary. Finally, in § 155.285(i), we propose a six year statute of limitations, beginning from the date on which the violation occurred, within which HHS may impose a CMP against a person. We seek comment on the proposed 6 year statute of limitations.

3. Subpart D—Exchange Functions in the Individual Market: Eligibility Determinations for Exchange Participation and Insurance Affordability Programs

a. Verification of Eligibility for Minimum Essential Coverage Other Than Through an Eligible Employer-Sponsored Plan (§ 155.320)

In § 155.320(d)(4), we established an option under which a State Exchange could rely on HHS to conduct verifications of enrollment in an eligible employer-sponsored plan and eligibility for qualifying coverage in an eligible employer-sponsored plan for purposes of eligibility for advance payments of the premium tax credit. This option was made available for eligibility determinations that are effective on or after January 1, 2015. Under this option, a State Exchange would need to develop an interface through which to transfer information to HHS, HHS would need to develop a way to receive and process the information, check data sources, potentially communicate with consumers, and then return information to the State Exchange, and the State Exchange would need to modify systems to integrate this response into what should otherwise be a near-real-time eligibility process. Responsibilities for customer service would likely be split across the State Exchange and HHS, which would be difficult to coordinate and increase administrative costs.

Accordingly, we have determined that the benefit gained by having HHS provide this function is far outweighed

by the information technology development and administrative and consumer complexity that would be introduced for a State through this approach. As such, we propose to strike paragraph (d)(4). We remain committed to working with State Exchanges to develop effective solutions for verifying enrollment in an eligible employer-sponsored plan and eligibility for qualifying coverage in an eligible employer-sponsored plan, and will work to make any additional electronic data sources that are accessible to HHS equally available to State Exchanges. We note that this proposed modification does not change the substantive rules regarding the verification of enrollment in an eligible employer-sponsored plan and eligibility for qualifying coverage in an eligible employer-sponsored plan. Therefore, the change does not affect program integrity.

b. Eligibility Redetermination During a Benefit Year (§ 155.330)

We propose a technical correction in paragraph (d)(2)(ii) to remove the reference to paragraph (e)(3) of this section. In the final rule titled, ''Medicaid and Children's Health Insurance Programs: Essential Health Benefits in Alternative Benefit Plans, Eligibility Notices, Fair Hearing and Appeal Processes, and Premiums and Cost Sharing; Exchanges: Eligibility and Enrollment'', 78 FR 32319, we previously removed paragraph (e)(3) from this section. As such, we now clarify that paragraph (d)(2)(ii) should only refer to the standards specified in paragraph (e)(2) of this section.

4. Subpart E—Exchange Functions in the Individual Market: Enrollment in Qualified Health Plans

a. Enrollment of Qualified Individuals in a QHP (§ 155.400)

In § 155.400, we propose to add paragraph (e). In this paragraph, we propose to establish that the Exchange would provide instructions to issuers regarding payment of the first month's premium for enrollments. Additionally, in § 156.265 we propose to establish a requirement for issuers in the Federally-facilitated Exchanges regarding payment due dates to collect premiums no later than the day before the coverage effective date. Our intention is to give the Exchange the flexibility to establish policy and process rules regarding premium payment.

We also propose to add paragraph (f), which would authorize Exchanges to provide requirements to QHP issuers regarding the instructions for processing electronic enrollment-related transactions.

b. Initial and Annual Open Enrollment Periods (§ 155.410)

In 45 CFR 155.410(d), we specify that starting in 2014, the Exchange must provide a written annual open enrollment notification to each enrollee no earlier than September 1, and no later than September 30. In 45 CFR 155.335(d), we specify that notice of annual redetermination for coverage effective January 1, 2015 be provided as a single, consolidated notice with the notice specified in 45 CFR 155.410(d). In the 2015 Payment Notice, we amended 45 CFR 155.410(e) to specify that for the benefit year beginning on January 1, 2015, the annual open enrollment period begins on November 15, 2014. Accordingly, we believe that it is appropriate to modify the timing of the notice of annual open enrollment and annual redetermination. Two options we could consider for this notice include, but are not limited to: (1) Shifting the period during which the notice would be sent by a month, so that the notice would be sent no earlier than October 1, and no later than October 31; and (2) shifting the period during which the notice would be sent by a month and lengthening this period so that the notice would be sent no earlier than October 1, and no later than November 15, provided that electronic notices are available for any consumer who contacts the Exchange on November 15. We solicit comment on which of these options we should implement, or if we should implement another option.

c. Special Enrollment Periods (§ 155.420)

In 45 CFR 155.420, we set forth provisions for special enrollment periods. We now propose amending § 155.420(b)(2)(ii), (d)(1), (d)(6)(iii) and (e), which pertain to the special enrollment period for loss of coverage; § 155.420(b)(2)(i) and (iii), which pertain to effective dates for certain special enrollment periods; and § 155.420(c), to address the length of the special enrollment periods.

In paragraph (b)(2)(i), we propose to provide flexibility for coverage effective dates in the case of birth, adoption, placement for adoption, or placement in foster care. We continue to require the Exchange to ensure that coverage is effective for a qualified individual or enrollee on the date of birth, adoption, placement for adoption, or placement in foster care, but we allow Exchanges to permit the qualified individual or enrollee to elect a later coverage effective date. If the Exchange permits the qualified individual or enrollee to elect a later coverage effective date, the Exchange must ensure coverage is effective on the date elected by the qualified individual or enrollee. We are considering establishing parameters for the dates that may be chosen by the qualified individual or enrollee.

In § 147.104(b)(2), we specified that, ''a health insurance issuer in the individual market must provide, with respect to individuals enrolled in non-calendar year individual health insurance policies, a limited open enrollment period . . .'' Accordingly, in order to align Exchange regulations with those of the broader insurance market, in paragraph (d)(1), we propose that the Exchange permit qualified individuals and their dependents to enroll in or change from one QHP to another if they are enrolled in a non-calendar year individual health insurance policy in 2014 described in § 147.104(b)(2), even if such non-calendar year policies are renewing. Thus, consumers whose individual health insurance policies that renew outside the Exchange open enrollment period have an opportunity to enroll in an Exchange, just as they would if their policies renewed during the Exchange open enrollment period. Without this addition, consumers with individual health insurance policies renewing outside the Exchange open enrollment period would be required to renew such policies, and wait to terminate the policies during the Exchange open enrollment period, should they wish to enroll in the Exchange, thus disadvantaging these consumers as compared to consumers enrolled in calendar year individual market policies.

In 26 CFR 1.5000A–2(b)(1)(ii)(C), the Secretary of the Treasury specified that coverage of pregnancy-related services under section 1902(a)(10)(A)(i)(IV) and (a)(10)(A)(ii)(IX) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(i)(IV), (a)(10)(A)(ii)(IX)) was not minimum essential coverage. In order to ensure that women losing eligibility for coverage of pregnancy-related services as described above are not left without an option to enroll in a QHP after the conclusion of Medicaid eligibility, in paragraph (d)(1), we propose that the Exchange permit qualified individuals and their dependents to enroll in a new QHP if they lose eligibility for such pregnancy-related services. We note that HHS may designate certain specific pregnancy-related programs to be minimum essential coverage under section 5000A(f)(1)(E) of the Affordable Care Act, though we propose to require this special enrollment period, regardless. We solicit comments

regarding whether there are other situations in which an individual loses coverage that is not defined as minimum essential coverage, such as AmeriCorps coverage, and should be provided with a special enrollment period.

We propose to add to paragraph (c) to specify that the Exchange must permit qualified individuals and their dependents to access the special enrollment periods described in paragraph (d)(1) for up to 60 days prior to the end of the qualified individual's or his or her dependent's existing coverage. This is consistent with existing regulations in paragraph (d)(6)(iii) that are specific to an individual who is enrolled in an eligible employer-sponsored plan who is determined newly eligible for advance payments of the premium tax credit based in part on a finding that such individual is ineligible for qualifying coverage in an eligible employer-sponsored plan. To improve the clarity and structure of this rule, we propose to move the language in paragraph (d)(6)(iii) regarding the 60 days prior access to the SEP to paragraph (c). The proposed change, to paragraph (d)(1) that would expand the ability to report a change in advance to all individuals who are described in paragraph (d)(1) is designed to allow an individual who is losing eligibility for coverage outside the Exchange to transition to coverage offered through an Exchange without a gap in coverage, but with protections to ensure that advance payments of the premium tax credit are not provided in advance of the loss of eligibility for minimum essential coverage outside the Exchange. Accordingly, we note that individuals are not eligible for advance payments of the premium tax credit until they are no longer enrolled in minimum essential coverage outside the Exchange. Lastly, we propose to make conforming changes to paragraphs (b)(2)(ii) and (e) to align with the changes in terminology proposed in paragraph (d)(1).

In paragraphs (d)(4), (d)(5), (d)(9) and (d)(10), we provide special enrollment periods for errors, contract violations, exceptional circumstances and misconduct. Existing paragraph (b)(2)(iii) specifies that for a plan selection made during one of the special enrollment periods under paragraphs (d)(4), (d)(5), and (d)(9), coverage must be effective on an appropriate date based on the circumstances of the special enrollment period, in accordance with guidelines issued by HHS, and provides two options for that effective date. We propose to add special enrollment periods triggered under paragraph (d)(10) to those special enrollment periods for which these special coverage effective dates are available. In order to ensure that the Exchange has sufficient flexibility with which to address the types of scenarios that may trigger these special enrollment periods, we propose to amend paragraph (b)(2)(iii) to remove the restriction to these two options. The resulting regulatory text would allow the Exchange to set an effective date based on what is appropriate to the circumstances, in accordance with any guidelines issued by HHS. Similarly, in order to ensure that the Exchange sets the length of these same special enrollment periods to be appropriate to the circumstances of the specific enrollment period, we propose to modify paragraph (c) to specify that the Exchange may define the length of these special enrollment periods as appropriate based on the circumstances of the special enrollment period, in accordance with any guidelines issued by HHS. We believe that this flexibility is important to ensure that the special enrollment periods can be implemented as intended.

Section 155.420(e) clarifies what qualifies as loss of coverage for purposes of the special enrollment period described in paragraph (d)(1). We propose to modify this paragraph to clarify that voluntary termination does not qualify as loss of coverage for purposes of a special enrollment period, since the intent of this special enrollment period is to ensure that an individual who is losing coverage can transition to the Exchange without interruption, and not to allow an individual to switch from another form of coverage to the Exchange during the year when the other form of coverage remains available and he or she does not qualify for another special enrollment period described in this section. We solicit comments regarding this clarification.

d. Termination of Coverage (§ 155.430)

We propose to add paragraph (e) to § 155.430 to establish the difference between a termination and a cancellation and establish the significance of a reinstatement action in the context of QHP coverage offered through an Exchange. Specifically, we propose to specify that a cancellation is a specific type of termination action taken either prior to or after the effective date of coverage that ends a qualified individual's coverage on or before the effective date, thus rendering coverage as never effective. In contrast, a termination is an action taken after the effective date of coverage that ends an enrollee's coverage effective on a date after the coverage effective date. In a cancellation, the effect of the QHP's action would be that a qualified individual never receives coverage from the QHP, whereas in a termination the QHP covers the enrollee for some period of time and would be liable for covered services that the enrollee received during the time period between the coverage effective date and the termination date, under the terms of the coverage. A reinstatement action is a correction of an erroneous termination or cancellation action resulting in restoration of an enrollment with no break in coverage.

In addition to establishing the difference between cancellations and terminations, we also propose that an Exchange may establish operational standards for QHP issuers for implementing terminations, cancellations, and reinstatements. Enrollment systems for both SBEs and the FFE continue to evolve, and we believe that the Exchange's ability to issue operational instructions will enable both the Exchange and the issuer community to respond more effectively to changing systems and changing processes. We believe the effectiveness of this approach has been demonstrated in other programs administered by CMS, specifically the Medicare Advantage and Medicare Part D programs.

Further, we are proposing to clarify in paragraph (d)(6) that the termination effective date being the day before the effective date of coverage in the new QHP would also apply in cases of retroactive enrollments. This could occur when a consumer is granted a special enrollment period to change QHPs with a retroactive coverage effective date under 155.420(b)(2)(iii). For coverage that is terminated retroactively, CMS will adjust any applicable payments to the original QHP issuer based on the retroactive termination date, in order to recoup any advance payments of the premium tax credit and cost-sharing reductions made to the former issuer for the enrollee. The Exchange would be required to ensure that the former issuer refunds or credits any premium paid to the issuer by the enrollee, reversing claim payments, and ensuring the provision of refunds for out-of-pocket payments made by or for the enrollee for covered benefits and services incurred, during the retroactive coverage period. We seek comment on whether to add a specific requirement to this effect on issuers in Part 156.

Conversely, in the case of a retroactive coverage date, CMS will provide the gaining issuer any applicable advance payments of the premium tax credit and

cost-sharing reductions based on the retroactive coverage effective date. Cost-sharing reduction reconciliation will occur for all cost-sharing reductions provided beginning with the retroactive coverage date. The gaining issuer would collect the enrollee's portion of the premium for all months of coverage and will be required to adjudicate the enrollee's claims incurred during the retroactive period, and provide any applicable cost-sharing reductions.

5. Subpart F—Appeals of Eligibility Determinations for Exchange Participation and Insurance Affordability Programs

a. General Eligibility Appeals Requirements (§ 155.505)

In § 155.505, we propose a technical correction to paragraph (b)(4) by removing ''; and'' at the end of the paragraph and adding a period in its place.

b. Dismissals (§ 155.530)

In § 155.530, we propose to amend paragraph (a)(1) to provide an additional method for appellants to withdraw appeal requests. The existing provision requires an appellant who wishes to withdraw his or her appeal request to do so in writing (hard copy or electronic). We are proposing to include the alternative for an appellant to withdraw his or her appeal by telephone, if the appeals entity is capable of accepting telephonic withdrawals. In paragraphs (a)(1)(i)(A) and (B), we propose the requirements for providing a telephonic withdrawal process. Specifically, we propose that the appeals entity must record in full the appellant's statement and telephonic signature made under penalty of perjury, and provide a written (in hard copy or electronically) confirmation to the appellant documenting the telephonic interaction. This written confirmation can be captured in the dismissal notice required in the case of a withdrawal under § 155.530(b). We note that a telephonic signature is a verbal acknowledgement in place of a written signature.

The intent of this proposed amendment is to provide a more efficient and convenient method for appellants and appeals entities to conclude an appeal at the request of the appellant. For example, under the current rules, an appeals entity must keep an appeal open and proceed to hearing following an informal resolution in every case where the appellant has not communicated his or her wish to withdraw the appeal in writing, even if the appellant is satisfied with the informal resolution decision. Because we anticipate that many appellants will not take the step of withdrawing their appeal requests in writing in this scenario, we believe the proposed amendment will provide appellants an easier process through which they can indicate their wish to end the appeals process. In addition, we believe the proposed amendment will also benefit appeals entities by reducing administrative burden, such as the requirement to convene unnecessary hearings described in the example above. The telephonic signature process provides a verifiable record of the appellant's intention to withdraw the appeal and end the appeals process, including where the appellant is satisfied with a result he or she has obtained without fully exhausting the appeals process.

We request comments on this proposed amendment, including the proposed requirements for accepting telephonic withdrawals. We also note that, although the proposed amendments to this provision will put the Exchange rules for withdrawal of an appeal request out of alignment with the Medicaid fair hearing rules, and we seek comment specifically on the impacts of this proposed change. Finally, we note that this proposed amendment also impacts withdrawal procedures for an employer appeal through the cross-reference in § 155.555(f)(1), which currently requires withdrawals in writing.

c. Employer Appeals Process (§ 155.555)

We propose to amend § 155.555 by redesignating paragraphs (d)(1) through (d)(4) to more clearly delineate between the requirements associated with valid appeal requests versus invalid appeal requests. We note that under this proposed redesignation, paragraph (d)(4) would become new paragraph (d)(2), stating that upon receipt of an invalid appeal request, the appeals entity must promptly and without undue delay send written notice to the employer that the appeal request is not valid because it fails to meet the requirements of this section. New paragraph (d)(2) would also provide introductory language for the requirements provided in paragraphs (d)(2)(i) through (iv). The result of this proposed revisions would be to separate the requirements for valid appeal requests in redesignated paragraph (d)(1) and the requirements for invalid appeal requests in new paragraph (d)(2).

6. Subpart G—Exchange Functions in the Individual Market: Eligibility Determinations for Exemptions

a. Required Contribution Percentage

Under section 5000A of the Code, an individual must maintain minimum essential coverage for each month, qualify for an exemption, or make a shared responsibility payment. Sections 5000A(d) and (e) provide for nine categories of exemptions, and authorize the Secretary to determine individuals' eligibility for some of the exemptions, including the hardship exemption. Sections 1.5000A–3(a) through (h) of 26 CFR enumerate the circumstances in which an individual may be exempt from the shared responsibility payment. These grounds for exemption include: (1) Under 26 CFR 1.5000A–3(e), the individual lacks affordable coverage because the individual's annualized required contribution for minimum essential coverage for the month exceeds the required contribution percentage of the individual's household income; (2) the individual has in effect a hardship exemption certification described in 26 CFR 1.5000A–3(h) and issued by an Exchange, as described in 26 CFR 1.5000A–3(h) and, based on the individual's projected household income, will have no affordable coverage; and (3) the individual and one or more employed members of his or her family has been determined eligible for affordable self-only employer-sponsored coverage through their respective employers, but the aggregate cost of employer-sponsored coverage for all the employed members of the family exceeds 8 percent of household income for that calendar year, as described in 45 CFR 155.605(g)(5). Determining eligibility for these exemptions requires comparison between the individual's share of the costs for obtaining minimum essential coverage and a certain percentage of the individual's household income, actual or projected, for the taxable year. Under section 5000A(e)(1)(A) of the Code, the percentage of the individual's household income is 8 percent. Section 5000A(e)(1)(D) of the Code and 26 CFR 1.5000A–3(e)(2)(ii) further provide that, for plan years beginning in any calendar year after 2014, the percentage is determined by the Secretary to reflect the excess of the rate of premium growth between the preceding calendar year and 2013 over the rate of income growth for the period.

Below, we outline and request comments on issues related to various methodologies we are considering for determining the excess of the rate of

premium growth over the rate of income growth. We are considering publishing the excess of the rate of premium growth over the rate of income growth for calendar years after 2015 in the annual HHS notice of benefit and payment parameters. We are also considering modifying § 155.605(g)(5), which currently sets the required contribution percentage at 8 percent, so that the required contribution percentage for this exemption in future years reflects the required contribution percentage for the applicable calendar year.

Methodology for Determining the Excess of Rate of Premium Growth Over Rate of Income Growth

As one possibility, we are considering establishing the rate of premium growth over the rate of income growth for a particular calendar year as the quotient of (x) one plus the rate of premium growth between the preceding calendar year and 2013, carried out to ten significant digits, over (y) one plus the rate of income growth between the preceding calendar year and 2013, carried out to ten significant digits. (To avoid magnifying rounding errors, any ratio of this sort would also be carried out to ten significant digits.) This would be multiplied by the required contribution percentage for 2014, for ease of application, and the result would be rounded to the nearest hundredth of a percent to yield the required contribution percentage for the calendar year. We note that this methodology would lead to a reduction in the required contribution percentage if the ratio of premium growth to income growth is less than one. Allowing for such a possibility would help ensure that changes in the required contribution standard are proportional to changes in the ratio of premiums over income observed in the private market as a whole. In contrast, we are also considering constraining this ratio, the excess of premium growth over income growth, to be greater than or equal to one. In addition, as discussed in further detail below, we are considering constraining the rate of premium growth and/or the rate of income growth to be equal to or greater than zero in any given year, and seek comment of the impact of these constraints on the excess of the rate of premium growth over the rate of income growth. We welcome comment on approaches for determining the excess of the rate of premium growth over the rate of income growth. In particular, we seek comment on whether the excess of the rate of premium growth over income growth should be calculated based on the difference between the growth rates, the ratio of the growth rates, or through other methods, and whether the result should be subject to other adjustments.

Premium Growth: We are considering setting the rate of premium growth for a calendar year to be the premium adjustment percentage for the year. We provided in the 2015 Payment Notice that the premium adjustment percentage, described at 45 CFR 156.130(e), will be published each year in the HHS notice of benefit and payment parameters, and will be used to adjust certain cost-sharing parameters established by the Affordable Care Act. As discussed in the 2015 Payment Notice, the premium adjustment percentage is calculated based on projections of average per enrollee employer-sponsored insurance premiums from the National Health Expenditure Accounts (NHEA), which are calculated by the CMS Office of the Actuary. After the initial years of implementation of market reforms, once the premium trend is more stable, we may propose to change the methodology for calculating the premium adjustment percentage. For 2015, the premium adjustment percentage is 4.213431463 percent. We note that incorporating the premium adjustment percentage into the methodology for determining the required contribution percentage will ensure that adjustments for premium growth are made in a consistent manner across programs established by the Affordable Care Act. We welcome comment on whether we should use the premium adjustment percentage as a measure of premium growth for the purpose of calculating the contribution percentage index. We also seek comment on whether adjustments, such as ceilings or floors, should be made to that index. For example, we are also considering constraining the rate of premium growth to be equal to or greater than zero in any given year. We note the language of section 5000A(e)(1)(D) of the Code could be read to support such an interpretation. That section uses the term ''premium growth,'' which could be read to mean that the statute envisions an adjustment of the required contribution percentage to only incorporate an increase in premiums. However, for purposes of this calculation, we seek comment on whether growth should be interpreted to refer to both positive and negative growth. We also seek comment on whether other data sources or methods should be used, such as alternative NHEA data sources, premium data from the Federal Employee Health Benefits Program, or any of the data sources discussed in connection with our proposal for the premium adjustment percentage index in the proposed 2015 Payment Notice.

Income Growth: We are contemplating calculating the rate of income growth for a calendar year as the percentage by which the per capita GDP for the preceding calendar year exceeds the per capita GDP for 2013, carried out to ten significant digits. In alignment with the premium adjustment percentage, we are considering using the projections of per capita GDP used for the NHEA.[36] If we were to use the projection of per capita GDP used for the NHEA as a measure of income growth, the rate of income growth for 2015 would be 3.608458790 percent. We note that GDP is a commonly used measure of income growth, but we are also considering other measures of income, such as indices of wages and salaries, and measures of personal income. We welcome comment on our proposed method for calculating the rate of income growth as well as alternative sources of income data that we should consider. In particular, we request comment on whether adjustments should be made to our data source or methodology, such as ceilings or floors. For example, similar to our discussion of ''premium growth'' above, we note that section 5000A(e)(1)(D) of the Code refers to ''the rate of income growth.'' Again, seek comment on whether growth should be interpreted to refer to both positive and negative growth. We also seek comment on whether we should seek to measure growth in GDP per person under the age of 65 or per worker, or growth in some other form of income index only for persons under the age of 65 or per worker, which may align more closely with certain measures of premium growth.

We seek comment on all aspects of these potential approaches.

b. Options for Conducting Eligibility Determinations for Exemptions (§ 155.625)

In § 155.625, we established an option under which a State Exchange could adopt an eligibility determination for an exemption from the shared responsibility payment that was made by HHS, provided that certain conditions were met. Section 1311(d)(4)(H) of the Affordable Care Act specifies that one of the minimum functions of an Exchange is to, ''. . . grant a certification attesting that . . .

[36] *See* Table 1 in *http://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/NationalHealthExpendData/Downloads/Proj2012.pdf.*

an individual is exempt . . .'' Accordingly, § 155.625(b)(2) specified that under this option, effective October 15, 2014, the Exchange would need to accept the exemption application, transmit it securely to HHS, receive the result, and notify the consumer. This process introduces significant information technology development and administrative burden into a process that could otherwise be executed at a single entity. In particular, such an arrangement would require a split of customer service responsibilities, which could make it very difficult for consumers to navigate the process. It also creates challenges for exemptions that involve information that can only be obtained through the eligibility process for insurance affordability programs, like the cost of the lowest-cost bronze plan net of advance payments of the premium tax credit, which is a component of one of the hardship exemptions described in this subpart, and is only available through a State Exchange.

Accordingly, we propose to revise § 155.625 to remove the option for a State Exchange to adopt an eligibility determination for an exemption from the shared responsibility payment made by HHS for applications submitted on or after November 15, 2014 and, for applications submitted before November 15, 2014, to retain the conditions currently imposed for adopting an eligibility determination for an exemption from the shared responsibility payment that was made by HHS under paragraph (b)(1). Under this proposal, HHS would continue to provide support in this area for applications up until that date. HHS has developed and released a set of model paper applications that can be adopted by State Exchanges, and is committed to providing technical assistance to assist State Exchanges in developing the capability to handle the minimum function of granting certificates of exemption.

7. Subpart H—Exchange Functions: Small Business Health Options Program

a. Functions of a SHOP (§ 155.705) Section 155.705(b)(2) and (3) currently provide that, for plan years beginning on or after January 1, 2015, all SHOPs must make available to qualified employers the option of selecting an actuarial value level of coverage as described in section 1302(d)(1) of the Affordable Care Act and making all qualified health plans at that level available to qualified employees (''employee choice''). Based on communications with issuers and State insurance commissioners, HHS has become concerned that, in some circumstances, implementing employee choice in 2015 might significantly disrupt some small group markets, and might therefore have a negative effect on the ability of small business owners to access coverage. HHS is specifically concerned that in certain circumstances, employee choice might lead to sicker people enrolling in disproportionate numbers in certain plans, which could have the effect of discouraging issuers from participating in the SHOP or causing adverse selection in the market that cannot be fully addressed by the single risk pool provisions of the statute or the premium stabilization programs. We have also heard concerns from issuers and State insurance commissioners that requiring employee choice might reduce issuer participation, leading to minimal value to consumers when there is not broad participation among issuers in the SHOP. At the same time, HHS does not anticipate that these conditions will apply in most markets, and HHS is continuing to work toward implementing employee choice in all SHOPs, because in the long run employee choice will bring significant benefits to small business owners and their employees. Not implementing employee choice may also disrupt the implementation efforts that issuers, States, Exchanges, and other stakeholders have already undertaken.

To address these concerns, we propose to amend § 155.705(b)(2) and (3) to provide for a one year transition policy under which a SHOP would be permitted to not implement employee choice in 2015 under specific circumstances: (1) If employee choice would result in significant adverse selection in the State's small group market that could not be fully remediated by the single risk pool or premium stabilization programs; or (2) if there is an insufficient number of issuers offering qualified health plans or qualified stand-alone dental plans to allow for meaningful plan choice among qualified health plans or qualified stand-alone dental plans for all actuarial value levels in the State's SHOP. We believe that meaningful choice means sufficient competition in the market to allow for participation in the SHOP from multiple issuers throughout the State. Meaningful choice provides affordable, quality plan options throughout the State's SHOP for all actuarial value levels.

Under this proposal, a State regulatory agency, such as the State department of insurance, would submit a recommendation to the SHOP (or in the case of an FF–SHOP, to the Secretary) in support of either circumstance for plan years beginning in 2015. We are considering whether such a recommendation by the State regulatory agency should include a mitigation plan describing the process the State regulatory agency will take to ensure that full implementation of employee choice in 2016 would not result in the occurrence of either aforementioned circumstance, and seek comment on whether such a plan should be included with the recommendation. We expect that the State would be required to provide in the recommendation to the SHOP concrete evidence that employee choice would result in significant adverse selection in the State's small group market that cannot be remediated through the premium stabilization programs or the single risk pool, or that there would not be a meaningful choice of QHPs and/or stand-alone dental plans in the State's SHOP. The SHOP would then evaluate the State's recommendation and request and determine whether the State's small group market would be significantly adversely affected by the implementation of employee choice. In the FF–SHOPs, CMS would seek public comment on the State's request regarding employee choice before making this determination. We seek comment on all aspects of the process SHOPs should follow in making this determination.

We seek comment on all aspects of this proposal, including, but not limited to: (1) The effect of such a policy on all SHOPs; (2) the effect of such a policy on each State's small group market; (3) the effect of such a policy on small employers and their employees and dependents; (4) the information the State regulatory agency should provide in support of any recommendation; (5) the criteria the SHOP (including, in the case of an FF–SHOP, the Secretary) should use in assessing a State regulatory agency recommendation; (6) whether all SHOPs should seek public comment on the State's request regarding employee choice; (7) whether employee choice would have to exist for both medical QHPs and stand-alone dental plans, or for neither; and (8) whether other provisions of the HHS regulations applicable to SHOPs should also be subject to a transition in SHOPs that exercise the proposed option. In particular, we seek comments on what should qualify as a significant risk of adverse selection, what should qualify as a lack of meaningful plan choice, and how both these conditions should be measured.

We also recognize the importance of the timing of a State regulatory agency's recommendation and the SHOP's decision regarding employee choice under this proposal. Whether or not employee choice is available in a SHOP may be relevant information for issuers to consider as they make QHP submissions, but State regulatory agencies also need time to evaluate market dynamics before they can make a recommendation about whether the SHOP should not implement employee choice in 2015. We are considering establishing a deadline for the State regulatory agency's recommendation to the SHOP. One option we are considering is that State regulatory agencies would make recommendations prior to the close of the initial QHP application window, with sufficient time for issuers to decide whether or not to participate in SHOP for the following plan year. Another option would be as follows: (1) All issuers interested in participating in SHOP would apply during the initial application window; (2) state regulatory agencies then would have a specific window of time within which to make a recommendation regarding whether to not implement employee choice in 2015 based on the applications received; (3) the SHOP would then have a specific window of time within which to make a decision about not implementing employee choice in 2015 based on that recommendation; (4) issuers could, based upon the SHOP's decision, decide whether to maintain, modify, or withdraw their QHP applications. In the FF–SHOPs, under this second scenario, we do not anticipate that issuers would be able to submit applications after the initial deadline to apply for QHP certification had passed. We solicit comment on these two options for timing the State regulatory agency's recommendation and the SHOP's decision, and also solicit additional, alternative suggestions for how best to operationalize this proposal. Generally, we request comment on the appropriate time for State regulatory agencies to submit a request to the Exchange regarding employee choice, on the appropriate time for the Exchange to make a decision on those requests, and on the effect of the timing of the decision making process on the QHP certification timeline as described in HHS regulations and guidance (including in the 2015 Annual Issuer Letter).[37] In any event, we expect that SHOPs would reach a decision about employee choice no later than early Fall 2014. We also seek comment on whether adverse selection could be avoided by allowing an employer to provide employee choice under the following circumstances: (1) Within a single issuer's plan offerings within an actuarial value level; (2) for all plans from a single issuer across two contiguous actuarial value levels; and (3) for all plans, all actuarial value levels, from a single issuer. These circumstances are transitional policies and do not reflect the full implementation of employee choice; we seek comment on how the proposed provisions would apply in these circumstances.

b. Enrollment Periods Under SHOP (§ 155.725)

We propose amendments to § 155.725(c) and (e) to amend the dates for the annual open enrollment periods for qualified employers and qualified employees in all SHOPs, both State-based or Federally-facilitated. In proposed §§ 155.725(c)(1), we propose to align the start of annual employer election periods in all SHOPs for plan years beginning in 2015 with the start of open enrollment in the corresponding individual market Exchange for the 2015 benefit year, as amended in the 2015 Payment Notice. In accordance with this proposal, we propose to modify paragraph (e) of this section to remove the reference to a period of no less than 30 days for the annual employee open enrollment period. Under this proposal, the annual employer and employee election periods would begin no sooner than November 15, 2014 with employers making selections first, followed by employees. The employer's annual election period will end when the employer makes relevant decisions about the coming year's participation. Qualified employers and qualified employees would still have adequate time to perform plan selection for plan years beginning in 2015 under this proposal. SHOPs would benefit from having the same amount of time to complete the QHP certification process for the SHOP as they have to complete this process for the individual Exchange. Notification standards described in paragraph (d) and (f) of this section would still apply, as the standards merely require the SHOP to notify qualified employers of annual employer election periods and to notify qualified employees of the annual employee open enrollment periods in advance of such periods.

The lack of alignment of the start of annual employer election periods in the SHOP for plan years beginning in 2015 with the start of open enrollment in the individual market Exchange for 2015 would place a burden on SHOPs and QHP issuers. Many Exchanges rely on the same technology solutions for plan management and other minimum functions of Exchanges in both the individual and small group markets. Aligning the start dates for the employer election period with the start of individual market Exchange open enrollment for 2015 would provide Exchanges with a uniform timeline for improving and launching Exchange services for 2015. Additionally, a uniform QHP filing and review timeline for both markets for 2015 would reduce confusion and provide efficiencies to scale in review, providing potential resource savings to Exchanges and QHP issuers. These efficiencies would still exist even if the SHOP and individual market Exchange were operated by different entities (such where a State has exercised the option at § 155.100(a)(2) to establish and operate only a SHOP, as many QHP issuers seek QHP certification in both markets.

We note that pursuant to § 147.104(b)(1)(i), group coverage purchased in the SHOP between November 15 and December 15 of each year is not subject to employer contribution or group participation rules as defined in § 147.106(b)(3). FF–SHOPs do not enforce minimum participation requirements between November 15 and December 15 of each year, but they are enforced upon initial enrollment outside of this window and at renewal. Aligning the annual employer election period to the start of the individual market Exchange to begin no sooner than November 15, 2014 will provide qualified employers and employees with a period of time to enroll for 2015 coverage when the FF–SHOP minimum participation provisions are not enforced.

We request comments on whether the proposed policy concerning aligning the timing of the SHOP employer election period for 2015 with the individual market annual open enrollment period would pose challenges for State-Based SHOPs as well as comments on any special circumstances that they would face in implementing the proposed policy. If implementing the proposed policy would disrupt the operations of State-Based SHOPs, we request comments on what flexibilities or adjustments to the proposed policy may be necessary to address these concerns.

[37] 2015 Letter to Issuers in the Federally-facilitated Marketplaces (March 14, 2014). Available at: *http://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/2015-final-issuer-letter-3-14-2014.pdf.*

For example, a State-based SHOP might have a 2015 small group market QHP certification process under which QHPs for 2015 coverage would be available sooner than November 15, 2014, such that the State-based SHOP's annual employer election period could start earlier than that date.

In §§ 155.725(c)(2) and 155.725(e), we propose to remove the required minimum lengths of both the employer election period and the employee open enrollment period to provide additional flexibility to SHOPs and qualified employers. The existing minimum standards may make it difficult for groups participating in the SHOP to renew coverage in a timely manner, as under the current regulations, the entire process could take as many as 75 days or longer to complete: up to 30 days for the employer's election, 30 days for the employees to enroll, and, depending on when in a given month that enrollment occurs, 15 or more days before coverage becomes effective. Further, this timeframe is not feasible in light of the proposal above to align the earliest date that an employer election period could begin in all SHOPs for plan years beginning in 2015 with the start of open enrollment in the corresponding individual market Exchange for the 2015 benefit year.

This proposal to remove the existing minimum timeframes for qualified employer and qualified employee enrollment decisions will permit SHOPs and qualified employers to act more quickly to renew coverage. Additionally, the existing minimum lengths for the employer election and employee open enrollment periods further complicate the renewal process for qualified employers renewing throughout the calendar year in SHOPs that permit the quarterly update of rates for QHPs. In many States, the updated rate may be published fewer than 45 days prior to the rate taking effect. Therefore, under the existing minimum standard, a qualified employer might not be able to consider the most up-to-date rate information for the coverage it intends to offer. Instead, such rate information might only become available during the employee open enrollment period, in which case the qualified employer may need to reopen either the employer election period or the employee open enrollment period to determine whether the selected QHPs still meet their needs under the new rates. This proposal will ameliorate this concern by permitting SHOPs to complete the entire election and enrollment processes in fewer than 45 days.

We seek comment on all aspects of these proposals.

c. SHOP Employer and Employee Eligibility Appeals Requirements (§ 155.740)

We propose to amend § 155.740(g) by redesignating paragraphs (g)(1) through (g)(3) to more clearly delineate between the requirements associated with valid appeals and those associated with invalid appeals.

In § 155.740(i)(1)(i), we propose to amend the provision by cross-referencing the withdrawal standards proposed in the individual market at § 155.530(a)(1). Under current rules, an appellant who wishes to withdraw his or her appeal request must do so in writing (hard copy or electronic). The amended provision would allow an appellant to withdraw his or her appeal request in writing or by telephone, if the appeals entity is capable of accepting telephonic withdrawals. As noted above in the preamble to § 155.530(a), appeals entities that wish to provide telephonic withdrawals must record, in full, the appellant's statement and telephonic signature made under penalty of perjury and provide a written (in hard copy or electronically) confirmation to the appellant documenting the telephonic interaction. Written confirmation can be captured in the dismissal notice required in the case of a withdrawal under § 155.740(i)(2). Like the proposal in the individual market, this amendment is intended to provide greater efficiency and convenience for an appellant and appeals entity to close an appeal in accordance with the appellant's wishes. We seek comment on this proposal.

8. Subpart O—Quality Reporting Standards for Exchanges

a. Quality Rating System (§ 155.1400)

To implement section 1311(c)(3) of the Affordable Care Act, we propose standards for data collection by QHP issuers and the public reporting by Exchanges of quality rating information. We intend to have a beta testing period in 2015 to provide early feedback to Exchanges and QHP issuers and begin public reporting of quality rating information and enrollee satisfaction survey information in 2016. We believe that it is important that the QRS provide QHP ratings that are based on health care quality, health outcomes, consumer experience, accessibility of care and affordability of care, which is information that is essential to inform consumer choices and to perform certain required functions of an Exchange. As outlined in the November 19, 2013 **Federal Register** Notice with Comment [38] on the QRS framework (QRS Notice), in the initial years, HHS aims to align the measures included in the QRS, to the extent possible, with measures health plans currently report in the commercial markets and public programs. The general functions of an Exchange outlined in 45 CFR 155.200(d) already include a requirement for an Exchange to oversee implementation of quality activities, including the ESS and QRS, and to ensure the reporting of data for these quality activities.

In § 155.1400, we propose that the Exchange must prominently display on its Web site, in accordance with 45 CFR 155.205(b)(1)(v), quality rating information assigned for each QHP under the QRS, as calculated by HHS and in a form and manner specified by HHS, starting in 2016. The standards for QHP issuers regarding the collection and submission of validated quality measures data for the QRS are described in Part 156, Subpart L of this proposed rule. The list of proposed individual quality measures and the proposed organization of the QRS measure sets are described in the QRS Notice. In addition, we intend to release the proposed methodology for calculating quality ratings as well as details regarding measure specifications and data validation processes in technical guidance in 2014.

We believe that the proposed approach where each Exchange displays quality ratings calculated by HHS based on a standard scoring methodology allows for reliable, uniform, and comparable QHP ratings across Exchanges. Therefore, HHS intends to calculate the quality ratings and provide the ratings to Exchanges for prominent display of quality rating information for each QHP offered in the Exchange. We encourage State Exchanges to have a plan review period, similar to what we intend to offer QHP issuers that participate in the Federally-facilitated Exchange, to allow issuers to review their QHPs' quality rating information before the data become public and to identify any discrepancies or errors with the data submitted, as appropriate. We have not incorporated specific criteria for public display by the Exchanges of the QHP quality rating information in proposed § 155.1400. However, we intend to do so in future technical guidance and are considering modeling the display of QHP quality ratings in a consistent manner with existing CMS

[38] Patient Protection and Affordable Care Act; Exchanges and Qualified Health Plans, Quality Rating System (QRS) Framework, Measures and Methodology; Notice with Comment, 78 FR 69418 (Nov. 19, 2013).

programs. As outlined in the QRS Notice, we intend to implement a methodology that would assign a quality rating to a QHP using a five star scale. The star ratings would be displayed in a similar style and format to that of Medicare Advantage and Prescription Drug Plan ratings. We believe that the five star quality rating display of Medicare Advantage health plans offers reliable data that is understandable for consumers. HHS anticipates providing the calculated rating information, as proposed in § 155.1400, for display on an Exchange Web site on an annual basis for the open enrollment period. We seek comment on the display of quality ratings of QHPs offered in an Exchange for consumers and employers, which aids comprehension of QHP quality information and which facilitates plan selection.

HHS recognizes that some States already have requirements for and publicly report health plan quality and outcomes data, and we want to encourage State flexibility and innovation, consistent with the Affordable Care Act. In addition to prominently displaying quality rating information for each QHP, as calculated by HHS in accordance with the QRS, a State Exchange may display additional QHP quality-related information, as appropriate, to enhance the consumer experience and help consumers compare QHPs being offered in an Exchange. We believe this proposed approach ensures that standardized information on the quality of health care will be collected and displayed across Exchanges but also provides flexibility for State Exchanges to incorporate additional information on their Web sites to support the plan comparison and selection process by consumers. We also are considering allowing State Exchanges the flexibility to display the QRS rating information, and satisfy the obligation under 45 CFR 155.205(b)(1)(v), by prominently displaying a link to the Federally-facilitated Exchange Web site that would present the Federal quality rating information. We seek comment on this approach including effective ways to display quality rating information to help consumers compare and select QHPs offered in an Exchange.

b. Enrollee Satisfaction Survey System (§ 155.1405)

Similar to the display requirement for the QRS, we propose a display requirement for the Exchange in § 155.1405 relating to the Enrollee Satisfaction Survey (ESS) to implement section 1311(c)(4) of the Affordable Care Act. We propose that the Exchange would prominently display results from the ESS on its Web site, in accordance with § 155.205(b)(1)(iv), as calculated by HHS, and in a form and manner specified by HHS, starting in 2016. The standards for QHP issuers regarding the collection and submission of validated data for the ESS are described in Part 156, Subpart L of this proposed rule. Because we believe that information regarding enrollee experience with the QHP is a fundamental aspect of the overall quality rating, HHS intends to incorporate enrollee experience data from the results of the ESS into the quality rating for each QHP. Research[39] has shown that synthesizing and simplifying health plan quality information presented to consumers eases consumer comprehension; therefore, we have developed a methodology to incorporate enrollee experience data as part of the quality rating information. We intend for the display of quality ratings, including the member experience data from the ESS, to be capable of drilling down to the results for individual quality measures if consumers should choose to access more detail of the data underlying the synthesized global quality rating. We therefore believe that by displaying quality rating information as described in § 155.1400 of this proposed rule (which would incorporate member experience data from the ESS), an Exchange would meet the requirement of displaying ESS information to consumers and employers for the purposes of plan comparison and satisfy the standard outlined in 45 CFR 155.205(b)(1)(iv). HHS anticipates providing results to the full ESS survey to an Exchange on an annual basis. An Exchange may choose to display on its Web site all ESS results, including those scores not used as part of the QRS. We seek comment on this proposed approach for displaying ESS information on an Exchange Web site.

Similar to our approach with the QRS, we also want to encourage State flexibility and innovation, consistent with the Affordable Care Act, with respect to enrollee satisfaction information. We therefore seek comment on whether State Exchanges should have flexibility to display the ESS 2015 beta test results prior to the scheduled public display of the Federal ESS in 2016.[40] Specifically, we solicit feedback on effective ways State Exchanges may share enrollee satisfaction information to help consumers compare and select QHPs offered in an Exchange prior to the availability of the Federal ESS data for the 2017 open enrollment period.

F. Part 156—Health Insurance Issuer Standards Under the Affordable Care Act, Including Standards Related to Exchanges

1. Subpart B—Essential Health Benefits Package

a. Prescription Drug Benefits (§ 156.122)

Section 156.122(c) requires issuers that provide EHB to have procedures in place that allow an enrollee to request and gain access to clinically appropriate drugs not covered by the plan. We are concerned that some enrollees, particularly those with certain complex medical conditions, are having trouble accessing in a timely fashion clinically appropriate prescription drugs, such as prescription drugs that are combination drugs not covered by their plans' formularies. Accordingly, we are considering amending the formulary exceptions standards under § 156.122(c) to require that these processes can be expedited when necessary based on exigent circumstances, such as when an enrollee is suffering from a serious health condition or an enrollee is in a current course of treatment using a non-formulary drug. For example, we could specify that an issuer render decisions regarding formulary exceptions requests within 24 hours following the issuers' receipt of the exceptions requests. This is currently suggested in the 2014 Letter to Issuers.[41] As clarification, the prescription drug standard in § 156.122(a)(1) was not intended to discourage issuers from offering clinically appropriate drugs to enrollees, including combination drugs.

We seek comment on what specific standards would be appropriate for defining this expedited exceptions process, and on all other aspects of this proposal.

[39] Peters EM, Dieckmann N, Dixon A, Hibbard JH, Mertz CK. Less is more in presenting quality information to consumers. Med Care Res Rev. 2007;64 (2):169–90; Hibbard JH, Peters EM. Supporting informed consumer health care decisions: data presentation approaches that facilitate the use of information in choice. Annual Review of Public Health. 2003; 24:413–33.

[40] The standards for QHP issuers regarding the collection and submission of data for the ESS, including the proposed timeline for public reporting of such data, are described below in Part 156, Subpart L of this proposed rule. Also see Agency Information Collection Activities: Health Insurance Marketplace Consumer Experience Surveys: Enrollee Satisfaction Survey and Marketplace Survey Data Collection; Notice, 78 FR 65658 (Nov. 1, 2013).

[41] *See* Appendix C of the 2014 Letter to Issuers on Federally-facilitated and State Partnership Exchanges (April 5, 2013). Available at: *http://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/2014_letter_to_issuers_04052013.pdf.*

b. Cost-Sharing Requirements (§ 156.130)

Under § 156.130(a), cost sharing for 2014 for self-only coverage may not exceed the annual dollar limit described in section 223(c)(2)(A)(ii)(I) of the Code. Under § 156.130(b), for a plan year beginning in calendar year 2014, the annual deductible for a health plan in the small group market for self-only coverage may not exceed $2,000. For 2015 and later years, these limitations are to be increased by an amount equal to the products of these amounts and the premium adjustment percentage established pursuant to paragraph (e) of that section. (The limitations for other than self-only coverage are twice the limitations for self-only coverage.) Under § 156.130(d), any increase in these annual limits that does not result in a multiple of $50 is to be rounded to the next lowest multiple of 50 dollars.

Section 156.130(e) provides that the premium adjustment percentage is the percentage (if any) by which the average per capita premium for health insurance coverage for the preceding calendar year exceeds such average per capita premium for health insurance for 2013, and that this percentage will be published annually in the HHS notice of benefit and payment parameters. The 2015 Payment Notice established our methodology for calculating the premium adjustment percentage.

In calculating the proposed limitations on cost sharing and small group deductible in the proposed 2015 Payment Notice, we rounded these limitations *up* to the next lowest multiple of $50. However, we subsequently learned that the IRS convention for interpreting similar language for a number of longstanding tax parameters—such as indexing methodologies for the alternative minimum tax and the standard deduction—is to round *down* to the nearest applicable multiple. For example, the Department of the Treasury, in a rule on how employers should calculate average annual full-time-equivalent wages for purposes of the small employer health insurance tax credit, provides that if the result is not a multiple of $1,000, employers should round the result to the next lowest multiple of $1,000.[42]

As a result, to align our rounding rules with those used by the Department of the Treasury and the Internal Revenue Service, we propose to amend § 156.130(d) to specify that when indexing the annual limitation on cost sharing and the annual limitation on small group deductibles for years after 2014, we will round to the multiple of 50 dollars that is lower than the number calculated by the formula.

Under this proposed amendment to § 156.130(d), using the premium adjustment percentage of 4.213431463 percent for 2015 we established in the 2015 Payment Notice and the 2014 maximum annual limitation on cost sharing of $6,350 for self-only coverage, which was published by the IRS on May 2, 2013,[43] the 2015 maximum annual limitation on cost sharing would be $6,600 for self-only coverage and $13,200 for other than self-only coverage.

Similarly, under the proposed amendment to § 156.130(d), using the premium adjustment percentage for 2015 of 4.213431463 percent and the 2014 maximum annual limitation on deductibles of $2,000 for self-only coverage, as specified in § 156.130(b)(1)(i), the 2015 maximum annual limitation on deductibles would be $2,050 for self-only coverage and $4,100 for other than self-only coverage.

We seek comment on our proposed amendment and its application for 2015.

2. Subpart C—General Functions of an Exchange

a. QHP Issuer Participation Standards (§ 156.200)

In § 156.200(b)(5), we propose technical amendments to clarify that implementing and reporting for the QRS and implementing a quality improvement strategy are conditions of participation in an Exchange. Specifically, we propose to include a reference to sections 1311(c)(3) and (c)(1)(E) of the Affordable Care Act to correctly align with other quality standards listed as part of QHP certification standards, including the ESS.

We also propose to amend § 156.200 to add paragraph (h) to require that, in order to receive QHP certification, the offering issuer attest that, subsequent to receiving such certification, it will comply with all operational requirements contained in Part 156, Subparts D, E, H, K, L, and M. We are proposing to add paragraph (h), however, to ensure that issuers seeking QHP certification understand and have fully committed to compliance with all operational requirements.

3. Subpart G—Minimum Essential Coverage

a. Other Coverage That Qualifies as Minimum Essential Coverage (§ 156.602)

In the final rule published on July 1, 2013 (78 FR 39494), we designated certain types of coverage as minimum essential coverage, including self-funded student health coverage (for plan or policy years beginning on or before December 31, 2014), Refugee Medical Assistance supported by the Administration for Children and Families, Medicare advantage plans, State-high risk pool coverage (for plan or policy years beginning on or before December 31, 2014) and other coverage that qualifies pursuant to the minimum essential coverage application process in 45 CFR 156.604. We also established a process by which sponsors of other coverage not designated as minimum essential coverage could apply with HHS to be recognized as minimum essential coverage.

In guidance published on October 31, 2013, we further indicated that coverage under a group health plan provided through insurance regulated by a foreign government (and not regulated by a State) is recognized as minimum essential coverage for a month with respect to an individual who, for such month, is physically absent from the United States for at least one day of the month. In addition, coverage under a group health plan provided through insurance regulated by a foreign government (and not regulated by a State) will also be recognized as minimum essential coverage with respect to an individual who is physically present in the United States for an entire month if the coverage provides health benefits within the United States while the individual is an expatriate.[44] The rationale behind this policy was that insurance that is regulated by a foreign government and not subject to regulation by a State does not meet the definition of health insurance coverage under the PHS Act, and thus should not be considered for purposes of a PHS Act analysis. The effect of this policy is to place group health coverage provided through foreign insurance on the same footing as self-insured group health coverage with respect to being deemed minimal

[42] *See* 26 CFR 1.45R–2(f)(1).

[43] See *http://www.irs.gov/pub/irs-drop/rp-13-25.pdf.*

[44] *See* CCIIO Sub-Regulatory Guidance: Process for Obtaining Recognition as Minimum Essential Coverage (October 31, 2013. Available at: *http://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/mec-guidance-10-31-2013.pdf.*

essential coverage without having to go through the application process.

We now propose to add new paragraph (e) to § 156.602 codifying the treatment of foreign group health coverage as stated in the October 31, 2013 guidance. We propose to designate foreign group health coverage for expatriates as minimum essential coverage if the coverage is self-insured, or is insured by an entity that is not subject to regulation by a State. Specifically, we propose to clarify in the regulations that foreign group health coverage is group health coverage that (1) is not insured by an issuer regulated by a State and (2) is for expatriates who are citizens or nationals of the United States residing abroad, or is for expatriates who are not citizens or nationals of the United States residing in the United States. We propose that if coverage for expatriates who are citizens or nationals of the United States who reside abroad is provided by a self-insured group health plan, or is provided by group health insurance not regulated by a State or group health coverage provided by a foreign national health plan, the coverage is designated as minimum essential coverage for any month that the citizen or national of the United States is physically absent from the United States for at least one day of the month.

For purposes of this section, we propose to define an ''expatriate'' as an individual for whom there is a good faith expectation that such individual will reside outside of their home country for at least six months of a 12-month period, including any covered dependents. This definition was adopted from the January 9, 2014 Affordable Care Act Implementation FAQs.[45] Another option is that we define ''expatriate'' more broadly to apply to individuals that are living outside of their home country for less than six months. For example, the Black's Law Dictionary defines ''expatriate'' as a citizen of country A living in country B where the classification of this citizen occurs regardless of if the citizen has a short stay or an extended or lifetime stay in country B.[46] We solicit comments on either definition of expatriate discussed above or another definition that would be appropriate for this section.

If an expatriate is a citizen or national of the United States and is physically present in the United States for an entire month, we propose that their foreign group health coverage is designated as minimum essential coverage if the coverage provides health benefits within the United States, and is provided by a self-insured group health plan, group health insurance regulated by a foreign government (and not by a State), or group health coverage provided by a foreign national health plan. We propose this time period so that expatriates who are citizens or nationals of the United States working abroad may visit the United States for a short period of time without their foreign group health coverage losing its designation as minimum essential coverage. We propose that the coverage must provide health benefits within the United States to ensure that the coverage is not limited to providing health benefits while an individual is absent from the United States. We solicit comments on the time period that expatriates who are citizens or nationals of the United States working abroad can remain in the United States without their foreign group health coverage losing its designation as minimum essential coverage.

In 45 CFR 156.602(e), we propose that if the foreign group health coverage is for expatriates residing in the United States who are not citizens or nationals of the United States, the coverage is designated as minimum essential coverage if the coverage provides health benefits within the United States, and is provided by a self-insured group health plan, group health insurance regulated by a foreign government (and not regulated by a State), or group health coverage provided by a foreign national health plan. We propose that the coverage must provide health benefits within the United States so as to ensure that the coverage provides health insurance benefits in the United States while an individual is living in the United States.

To ensure that expatriates enrolled in foreign group health coverage are aware that their coverage has been designated as minimum essential coverage and that foreign group health coverage complies with the same reporting requirements as other types of minimum essential coverage, we propose to require that the sponsor, issuer, or plan administrator, as applicable, of any foreign group health coverage must provide notice to enrollees who are citizens or nationals of the United States of its minimum essential coverage status and comply with the information and reporting requirements of section 6055 of the Code and implementing regulations with respect to those enrollees. We welcome comments on any aspect of these proposals.

b. Requirements for Recognition as Minimum Essential Coverage for Types of Coverage Not Otherwise Designated Minimum Essential Coverage in the Statute or This Subpart (§ 156.604)

Section 45 CFR 156.604 outlined a process by which types of coverage not statutorily specified and not designated by regulation as minimum essential coverage may seek to be recognized as minimum essential coverage. We established the requirement that the application must be submitted to HHS on behalf of the plan or policy by the sponsor of the coverage or government agency.

We now propose to clarify that the application may also be submitted to HHS on behalf of the plan or policy by a health insurance issuer or a plan administrator because the health insurance issuer or plan administrator may be the more appropriate party to submit the application. For example, a health insurance issuer may more efficiently provide the information required for an application on behalf of a foreign health insurance plan sold in the individual market to expatriates living abroad. We welcome comments on all aspects of these proposals.

4. Subpart I—Enforcement Remedies in Federally-Facilitated Exchanges

a. Available Remedies; Scope (§ 156.800)

In subpart I of 45 CFR part 156, finalized on August 30, 2013 in the rule Patient Protection and Affordable Care Act; Program Integrity: Exchange, SHOP, and Eligibility Appeals (Program Integrity Rule),[47] we established the enforcement remedies available to HHS for enforcing standards applicable to issuers offering QHPs in the FFEs. Since the publication of that rule and in the course of our routine monitoring of QHP issuers for compliance with applicable FFE standards, we have received multiple inquiries from QHP issuers and States about whether HHS will be coordinating and sharing information about QHP issuers with State regulatory entities as part of its oversight activities. We propose adding paragraph (d) to clarify that HHS may consult and share information about QHP issuers with other Federal and State regulatory and enforcement entities to the extent that

[45] *See* FAQs about Affordable Care Act Implementation (Part XVIII) and Mental Health Parity Implementation (January 9, 2014). Available at: *http://www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/aca_implementation_faqs18.html* and *http://www.dol.gov/ebsa/faqs/faq-aca18.html*.

[46] *See* Black's Law Dictionary Free (2d ed. 2014). Available at: *http://thelawdictionary.org/expatriate*.

[47] Patient Protection and Affordable Care Act; Program Integrity: Exchange, SHOP, and Eligibility Appeals, 78 FR 54070 (August 30, 2013) (to be codified at 45 CFR parts 147, 153, 155, and 156).

this information is necessary for HHS to determine whether an enforcement remedy under subpart I is appropriate. We believe this is consistent with our intent to coordinate with States in enforcement actions as described in the proposed Program Integrity Rule.[48]

b. Bases and Process for Imposing Civil Money Penalties in Federally-Facilitated Exchanges (§ 156.805)

In the Program Integrity Rules, we established the bases for HHS to impose CMPs against QHP issuers for violations of certain standards applicable to issuers offering QHPs in the FFEs. In § 156.805(d) we set forth the general process for notifying the QHP issuer against which the CMP is being imposed. The general process did not address how prior to the imposition of the CMP, the QHP issuer would be notified of the alleged violation which forms the basis for the imposition of CMP. We propose adding § 156.806 to explain that HHS will provide a written notice to the issuer, to include a description of the potential violation, a 30-day period for the QHP issuer to respond and to provide additional information to refute an alleged violation.

If HHS determines that a CMP will be imposed, HHS will notify the QHP issuer as required under § 156.805(d). We note that § 156.805(d) does not specify the method of delivery of such notice. We believe it is important to ensure that such notices are appropriately delivered to the QHP issuer to provide the QHP issuer with proper notice. We propose adding § 156.805(d)(3) to require that delivery of the notice required in paragraph (d) will be either hand delivered, sent by certified mail, return receipt requested, or sent by overnight delivery service with signature upon delivery required. This requirement is identical to the requirement under § 158.613 which applies to the delivery of notice of civil penalties under 45 CFR Part 158, with which we believe QHP issuers will generally be familiar. We believe this proposed requirement will ensure that QHP issuers have proper notice of HHS's intent to impose CMPs. Finally, we also note that paragraph (e)(2) requires HHS to notify the QHP issuer of any penalty that has been assessed and of the means by which the responsible entity may satisfy the judgment. We propose rewording the regulatory text to clarify that the responsible entity refers to the QHP issuer against whom a CMP is being imposed or another entity responsible for satisfying the CMP assessment and that the judgment refers to the CMP assessed under of this subpart.

c. Bases and Process for Decertification of a QHP Offered by an Issuer Through a Federally-Facilitated Exchange (§ 156.810)

In subpart I of 45 CFR part 156, finalized in the Program Integrity Rule, we established the bases for HHS to decertify QHPs for violations of certain standards applicable to issuers offering QHPs in the Federally-facilitated Exchanges. Under § 156.810(a) we set forth the bases for decertification. Since the publication of this final rule, we believe that certain paragraphs should be clarified. For example, paragraph (a)(6) should be reworded to clarify that the certification criteria means the standards under subpart C of this part. In paragraph (a)(9), it was unclear which laws were intended and we proposing clarifying that violation of State or Federal law relating to internal claims and appeals and external review processes are bases for decertification under this paragraph. We propose aligning the standards set forth under subparts K and M with the bases for decertification. We propose adding a paragraph (12) to reflect that HHS may decertify a QHP if the QHP issuer substantially fails to meet the requirements related to the cases forwarded to QHP issuers under Subpart K, and adding a paragraph (13) to reflect that HHS may decertify a QHP if the QHP issuer substantially fails to meet the requirements in Subpart M. Finally, in the preamble to the proposed Program Integrity Rule, we explained that when the basis for a decertification is one in which the QHP enrollees' ability to access necessary medical items or services is at risk or the integrity of an FFE is substantially compromised, HHS would have the authority to pursue an expedited decertification (78 FR 37062). Because QHP issuers are required to demonstrate compliance with the minimum certification standards in subpart C of part 156 and Exchanges are required under section 155.1010(a)(2) to monitor QHP issuers for demonstration of ongoing compliance with the certification requirements, we believe that it is appropriate for the FFEs to be able to pursue an expedited decertification when HHS has determined that the QHP no longer meets applicable certification standards. Accordingly, we propose amending § 156.810(d) to reflect this change.

5. Subpart L—Quality Standards

a. Establishment of Standards for HHS-Approved Enrollee Satisfaction Survey Vendors for Use by QHP Issuers in Exchanges (§ 156.1105)

In the rule Patient Protection and Affordable Care Act; Program Integrity: Exchange, Premium Stabilization Programs, and Market Standards; Amendments to the HHS Notice of Benefit and Payment Parameters for 2014 (Second Program Integrity Rule)[49] at 45 CFR 156.1105, we established processes for HHS to approve and oversee ESS vendors that will administer the ESS on behalf of QHP issuers. We outlined a process by which enrollee satisfaction survey vendors would submit an annual application demonstrating that they meet all of the application and approval standards in paragraphs (a) and (b). Lastly, we noted that HHS would publish a list of approved enrollee satisfaction survey vendors on an HHS Web site.

We propose to amend § 156.1105 to also include monitoring and appeals processes that would apply for plan years beginning 2015. In paragraph (d), we propose that HHS will monitor HHS-approved enrollee satisfaction survey vendors to ensure ongoing compliance with the application and approval standards. Further, we propose that if HHS determines that an approved vendor is non-compliant with the standards outlined in paragraph (b), they may be removed from the approved list described in paragraph (c) and/or the submitted survey results may be ineligible to be included for ESS results.

We propose to establish a monitoring process to prepare for situations when an HHS-approved enrollee satisfaction survey vendor is no longer in compliance with the standards outlined in § 156.1105. It is possible that once the enrollee satisfaction survey vendor is approved and contracts with a QHP issuer to provide survey administration services, the HHS-approved vendor may stop participating in or complying with required activities described in paragraph (b)(1) (for example, the vendor does not participate in site visits or conferences calls or fails to become a registered user for the ESS data warehouse). We propose that in the event that HHS determines, through its oversight activities, that the HHS-approved survey vendor is non-compliant, a process would already be

[48] Patient Protection and Affordable Care Act; Program Integrity: Exchange, SHOP, Premium Stabilization Programs, and Market Standards; Proposed Rule, 78 FR 37032 (June 19, 2013).

[49] Patient Protection and Affordable Care Act; Program Integrity: Exchange, Premium Stabilization Programs, and Market Standards; Amendments to the HHS Notice of Benefit and Payment Parameters for 2014, 78 FR 65046 (Oct. 30, 2013) (to be codified at 45 CFR parts 144, 146, 147, 153, 155, and 156).

in place to take appropriate remedial action as well as notify QHP issuers and the public of any changes to the approved list of vendors. We propose that, in addition to other existing remedies, HHS would have the ability to remove a survey vendor from the approved list and/or determine that the submitted survey results are ineligible to be included for ESS results, as the validity of the results may be impacted. HHS would also update the published list of approved vendors to reflect any changes. We seek comment to inform future guidance on the factors that should be considered, as well as the conditions that may lead to the removal of an approved survey vendor from the HHS approved list and/or a determination that the submitted survey results are ineligible to be included for ESS results.

In paragraph (e), we propose an appeals process for an ESS vendor that submits an application to HHS for approval, as described in paragraph (a), and is not approved. Specifically, we propose that an enrollee satisfaction survey vendor may appeal HHS's decision by notifying HHS in writing within 15 days of the notification of not being approved by HHS and submitting additional documentation demonstrating how the vendor meets the standards in paragraph (b). HHS will review the submitted documentation and make a final approval determination within 30 days from receipt of the additional documentation. An enrollee satisfaction survey vendor that becomes approved via the appeals process would be included in the approved list, described in paragraph (c). We seek comment on the proposed approach to implementing an appeals process for survey vendors that are not approved by HHS after submission of an application for approval.

b. Quality Rating System (§ 156.1120)

In addition to proposing standards for Exchanges to oversee the QRS and display quality rating information on Exchange Web sites as set forth in § 155.1400 of this proposed rule, we also propose standards for QHP issuers to collect and report the necessary information to implement the QRS pursuant to section 1311(c)(3) of the Affordable Care Act. While the QRS Notice describes areas such as the overarching goals, framework, measure selection process and individual measures of the QRS, this proposed rule outlines the QRS implementation and reporting standards for QHP issuers.

In the QRS Notice, we proposed a QRS measure set that applies to QHPs that provide family and adult self-only coverage and we proposed a separate Child-only QRS measure set applying to QHPs that provide child-only coverage. CMS continues to monitor the number of child-only QHP offerings on the Exchanges. A limited number of child-only QHPs and enrollees may prohibit reliable child-only QHP rating calculations. As mentioned in the QRS Notice, we will also consider the development of a quality rating system applicable to other Exchange offerings, such as stand-alone dental plans, catastrophic plans, and health savings accounts. After considering public comment as well as the review by the Measures Application Partnership's Health Insurance Exchange Taskforce convened by the National Quality Forum, we intend to finalize the quality measures outlined in the QRS Notice and provide measure specifications in future technical guidance. Our goal is to publish this future technical guidance on a HHS Web site in 2014 to provide time for QHP issuers to collect and submit the relevant validated data for the 2015 beta test.

QRS Implementation and Reporting

At § 156.1120(a), we propose data submission requirements for a QHP issuer for the information necessary to calculate the quality ratings under the QRS, and in § 156.1120(b), we propose to direct a QHP issuer to annually submit data necessary to calculate the QHP's quality ratings to HHS and the Exchange, on a timeline and in a standardized form and manner specified by HHS. In paragraph (a)(1), we propose that a QHP issuer must submit data to calculate quality ratings for each QHP that has been offered in an Exchange for at least one year. HHS proposes to phase in implementation of the QRS over time in recognition of the fact that QHP issuers would need time to collect, ensure the reliability of, and report quality measure data. In addition, certain quality measures require one or two year reference periods, and QHP issuers would need time for data collection, validation and submission. Therefore, we propose that for the first year that a QHP is offered in an Exchange, the QHP issuer would prepare to submit the required validated data elements for QRS beta testing in the second year that the QHP is offered in an Exchange. The QHP issuer would then submit the required validated data elements for QRS public reporting in the third year that the QHP offers coverage (reflecting second year data). For example, an issuer that offers a QHP in the Exchange during the 2013 open enrollment period for coverage beginning in January 2014 would submit the required validated data for a QRS beta testing period beginning in mid-2015 (coverage year two), which would not be publicly reported by the Federally-facilitated Exchange. The issuer would next be required to submit the required validated data for the QHP offered in the Exchange to calculate quality rating information for QRS public reporting during the 2016 open enrollment period for the 2017 coverage year (coverage year four). Specifically, we intend for the QRS data reporting period to begin the first month of a calendar year through the middle of the sixth month of the calendar year. For example, a QHP issuer submitting data for the 2015 QRS beta testing period would submit data on or around June 15, 2015 and would submit data for its first QRS public reporting on or around June 15, 2016. We intend for the QRS to include data from all eligible QHP enrollees covered during the measurement year which would be the previous calendar year(s) and based on measure specifications for that year's collection. We intend to provide details of the QRS rating methodology, measure specifications, criteria for quality rating display, and information regarding QRS data validation in technical guidance that would be periodically updated.

In paragraph (a)(2), we propose to direct a QHP issuer to submit data that has been validated in a form and manner specified by HHS. We believe that the submission of validated data by QHP issuers is necessary to ensure the integrity and reliability of the QRS to allow consumers objective and meaningful comparisons of the QHPs' quality data. We believe that review of quality measures data by an independent third party entity will ensure that only valid and appropriate data are used to calculate the quality rating information for QRS public reporting. In the initial years, HHS intends to direct QHP issuers to follow the process specified by the quality measure steward for validation of its quality measures that are incorporated into the QRS. For example, for any Healthcare Effectiveness Data and Information Set (HEDIS)® measure in the QRS, the measure should be validated through the HEDIS® Compliance Audit process using a certified auditor, as defined by the National Committee for Quality Assurance (NCQA). We have drawn from our experience with the Medicare program which also ensures that clinical quality HEDIS® data submitted and reported on behalf of the Medicare Advantage and Prescription Drug Programs are valid and reliable by

requiring data to be validated through the NCQA HEDIS® Compliance Audit process before being provided to CMS for public reporting. HHS would specify in technical guidance a validation process for any measures for which the measure steward has not defined a validation process. In the future and as the QRS evolves, HHS is considering establishing an application and approval process for independent third party data validators to allow QHP issuers to contract with validators that would be approved and monitored by HHS.

In paragraph (a)(3), we propose that a QHP issuer must include information in its data submission only for those QHP enrollees at the reporting level specified by HHS that is necessary to calculate the quality ratings. As we stated in the QRS Notice, HHS intends to specify that for the initial years of QRS implementation, a QHP issuer must collect and submit data for enrollees in each product type offered by a QHP issuer in each State for which the QHP operates (for example, Health Maintenance Organization (HMO), Point of Service (POS), and Preferred Provider Organization (PPO)).[50] While we understand that there may be value in reporting quality rating information at more granular QHP levels, such as the QHP product metal level, we believe that a QHP's enrollment size at the product metal level will be too small to ensure reliable QRS results across the measure domains in the beginning years of the Exchange. We intend to revisit the level of QHP issuer reporting for the QRS as Exchanges mature and enrollment sizes increase. We also recognize that a QHP issuer may offer a QHP outside an Exchange that would be considered the same plan as one that is certified as a QHP and offered through the Exchange, if the benefits package, provider network, service areas and cost-sharing structure of the two offerings are identical as outlined in the Program Integrity Final Rule.[51] We intend to allow a QHP issuer to collect data for the QRS based on enrollees of QHPs offered through and outside of the Exchange as long as they are considered the same plan. If this approach is finalized, we intend to clarify the operational details of this approach in future technical guidance.

We seek comment on the data submission requirements proposed in paragraph (a) including comment regarding the reporting timeframes and any additional criteria for the submission or reporting of quality data for QRS purposes. We seek comment on the proposed approach, for the initial years of QRS implementation, of product level reporting and allowing the incorporation of quality measure data from QHPs offered outside the Exchange, if they are considered the same plan as the QHP offered through the Exchange. We also solicit comment to inform future rulemaking regarding the potential requirement for QHP issuers to use independent third party data validators that would be approved and monitored by HHS for QRS purposes.

As described in 45 CFR 156.275, QHP issuers are required to be accredited on the basis of local performance of a QHP by an accreditation entity recognized by HHS, and to submit to such entity clinical quality measures, such as HEDIS®. We are seeking comment to inform future rulemaking on how best to align QRS measures reporting requirements with the accreditation standards for QHP issuers.

We note that multi-State plans, as defined in § 155.1000(a), are subject to reporting QRS data for calculation of quality ratings by HHS, as described in paragraph (a). The U.S. Office of Personnel Management (OPM) will provide guidance on quality reporting to issuers with whom it holds multi-State plan contracts.

Marketing Materials

In paragraph (c), we propose that an issuer may reference its QHP's quality rating information in its marketing materials, in a manner specified by HHS. In the subsequent section 156.1125 regarding the ESS, we propose a similar marketing standard in § 156.1125(c) that a QHP issuer may reference the ESS results for its QHPs in its marketing materials, in a manner specified by HHS.

A QHP issuer has the option to use quality rating information and ESS results in its marketing materials; however, an issuer that elects to use the information must do so in a manner that does not mislead consumers into enrolling in a QHP based on inaccurate information. We intend to provide details regarding display of rating information and ESS results in marketing materials in technical guidance that we anticipate releasing in 2015. We seek comment regarding the proposed allowance for issuers to include its QHPs' quality rating information and ESS results in its marketing materials in paragraphs (c) of 156.1120 and 156.1125 and ways to prevent the use of the information in a misleading manner when being presented to consumers.

c. Enrollee Satisfaction Survey (§ 156.1125)

Section 1311(c)(4) of the Affordable Care Act directs the Secretary to establish an enrollee satisfaction survey (ESS) system that would evaluate the level of enrollee satisfaction of members in each QHP with more than 500 enrollees in the previous year that is offered through an Exchange. It also directs Exchanges to display enrollee satisfaction information on their Web sites to allow individuals to readily compare enrollee satisfaction data between QHPs. To implement this provision, HHS is developing the ESS as described in the **Federal Register** Notice dated Nov. 1, 2013 (ESS Notice).[52] We outline standards in this proposed rule for a QHP issuer to collect and submit validated enrollee experience data from QHPs offered through an Exchange.

We believe it is important that QHPs offered through Exchanges be assessed using a reliable and valid survey, administered and scored according to standards developed and monitored by independent organizations. We based the ESS on the Consumer Assessment of Health Providers and Systems (CAHPS®) Health Plan 5.0 Medicaid survey to assure consumers and stakeholders that the ESS survey data submitted meet the validity and reliability standards reported by the CAHPS® program and are comparable to data from other quality comparison tools. We used existing CAHPS® supplemental item sets or other CAHPS® surveys, when available and appropriate, to identify any additional items for the ESS.

ESS Administration

At § 156.1125(a), we propose to direct QHP issuers to contract with an HHS-approved ESS vendor, as identified by § 156.1105, to administer the ESS of the QHP's enrollees. We also propose to direct a QHP issuer to authorize its contracted ESS vendor to report survey results to HHS and the Exchange on the issuer's behalf. We believe this proposed approach aligns with the Medicare program, which uses a similar process by having approved survey vendors administer the CAHPS® survey

[50] Patient Protection and Affordable Care Act; Exchanges and Qualified Health Plans, Quality Rating System (QRS) Framework, Measures and Methodology; Notice with Comment, 78 FR 69418 (Nov. 19, 2013).

[51] Patient Protection and Affordable Care Act; Program Integrity: Exchange, SHOP, and Eligibility Appeals; Final rule, 78 FR 54070 (Aug 30, 2013).

[52] Agency Information Collection Activities: Health Insurance Marketplace Consumer Experience Surveys: Enrollee Satisfaction Survey and Marketplace Survey Data Collection; Notice, 78 FR 65658 (Nov. 1, 2013).

to an issuer's Medicare Advantage and Prescription Drug Program enrollees. Similar to the proposed general requirement for the QRS in § 156.1120(a), which directs a QHP issuer to submit data to HHS and the Exchange, QHPs must ensure that their contracted ESS vendors submit the data collected from the ESS survey to HHS and the Exchange so that HHS can calculate the ESS scores and benchmarks based on a standard scoring methodology that will allow for reliable, uniform, and comparable scoring across Exchanges. HHS intends to send calculated ESS scores to the Exchanges for their respective QHPs and also intends to use a subset of scores from the ESS as part of the quality rating for QHPs as described in § 156.1120. We intend for the ESS to be administered from January through April of each calendar year beginning in 2015.

HHS is considering the development of an ESS child-only survey to assess the experience of children enrolled in child-only plans. Similar to the implementation of the QRS child-only measure set, CMS is currently assessing the feasibility of a child-only ESS based upon the number of child-only QHPs and enrollees in Exchanges.

In paragraph (b), we propose several data requirements to clarify the standards for collection and submission of ESS data. At § 156.1125(b)(1), we propose to direct a QHP issuer to collect data of eligible enrollees for each QHP with more than 500 enrollees in the previous year that has been offered in an Exchange for at least one year following a survey sampling methodology provided by HHS. We propose that eligible enrollees would be those individuals enrolled for at least six months during the year prior to the administration of the survey and solicit comment on this approach.

In paragraph (b)(2), we propose to direct a QHP issuer to submit data, necessary to conduct the ESS, that has been validated in a form and manner specified by HHS. We propose that the data for the sample of eligible enrollees that a QHP issuer provides to their contracted ESS vendor be validated in a consistent way as data validated for the QRS. For example, if a QHP issuer submits data collected for a quality measure that is validated through the HEDIS® Compliance Audit process using a NCQA certified auditor, we expect the data that the QHP issuer provides to its HHS-approved ESS vendor for the ESS sample be included in that validation process. We solicit comment on this approach for validation of the data for the ESS sample of eligible enrollees.

In paragraph (b)(3), we propose to direct a QHP issuer to include only those QHP enrollees at the reporting level specified by HHS, for data submitted for the ESS. We believe that the QHP metal level (i.e., HMO Silver, HMO Bronze, PPO Silver, PPO Bronze) for each of the issuer's products is the appropriate level (if enrollment is sufficient to ensure credibility) to assess enrollee experience and would provide information regarding experience with plans charging differing premiums. We intend to aggregate the ESS data from the QHP metal level to the QHP product level (for example, a QHP issuer's HMO silver and HMO bronze would be aggregated into one HMO level score) for public reporting purposes to provide consistency with the product-level data that would be submitted for the QRS and align with the QRS methodology in the initial years of implementation of these proposed quality standards for QHPs.

We recognize that a QHP issuer may offer a plan outside an Exchange that would be considered the same plan as one that is certified as a QHP and offered through the Exchange, as defined in § 153.500. Similar to our proposed approach with the QRS, we are considering in the initial years to allow a QHP issuer to include enrollees of QHPs offered through and outside of the Exchange, to ensure a reliable ESS sample size, as long as they are considered the same plan as established in § 153.500. We intend to clarify the operational details of this approach in future technical guidance. OPM will issue technical guidance regarding the sampling methodology for multi-State plans, as defined in 45 CFR 155.1000(a). We envision that the sampling methodology for multi-State plans will align with that of QHPs.

In paragraph (d), we propose to direct a QHP issuer to submit data necessary to conduct the survey to its contracted ESS vendor on a timeline and in a form and manner specified by HHS. We intend to align the timeframes of the proposed reporting requirements for the ESS and the QRS. In future technical guidance, we also intend to specify the timeframes for a QHP issuer to submit the sampling data to its contracted ESS vendor and for the vendor to submit to HHS and the Exchange, data from the administration of the survey.

ESS Implementation and Reporting

HHS proposes to phase in implementation of the ESS over time which is consistent with the proposed implementation of the QRS. We believe this will allow for appropriate development and testing of the ESS and the survey methodology; time for QHP issuers to prepare for data collection, validation and submission; and time for QHP enrollees to build experience with the QHP and their providers to adequately assess their experience and to ensure reliable survey results. Therefore, we propose that for QHPs offered in the Exchange during the 2014 open enrollment period, the QHP issuer would submit the required data elements for ESS beta testing in 2015. The QHP Issuer would then submit the required data elements in 2016 for ESS public reporting during the 2017 open enrollment period. Specifically, we intend for QHP issuers to provide data necessary to conduct the survey to their contracted HHS-approved ESS vendors, as described in paragraph (a), during the first month of the calendar year and to ensure that survey results are submitted to HHS or its' designee, by the fifth month of the calendar year. For example, a QHP issuer reporting data for the 2015 ESS beta test would provide sample frame data necessary to conduct the ESS for eligible enrollees who would be surveyed, to their contracted survey vendor in January 2015, allowing adequate time for the vendor to draw the sample in time to begin fielding the survey on February 1. Then, a QHP issuer would ensure that the ESS survey results are submitted to HHS on or around May 31, 2015. For the first year of ESS public reporting, a QHP issuer would provide sample frame data necessary to conduct the ESS in January 2016 and ensure that results are submitted to HHS or its' designee on or around May 31, 2016. We intend for the ESS sample to include all eligible QHP enrollees covered during the measurement year which would be the previous calendar year and based on sampling specifications. We intend to provide details of the ESS sampling methodology in technical guidance that would be periodically updated and which will be published in draft form on an HHS Web site to obtain feedback from stakeholders.

We seek comment on the proposed requirement in paragraph (a) to direct a QHP issuer to contract with an HHS-approved enrollee satisfaction survey vendor and to authorize its contracted vendor to submit data to HHS and the Exchange. Specifically, request feedback on our proposed approaches for data collection from eligible enrollees for each QHP with more than 500 enrollees in the previous year that has been offered in an Exchange for at least one year, to require validation consistent with the process for QRS measure data and to provide data for eligible enrollees

at the QHP metal level for each of the issuer's products offered on the Exchange. We also seek comment on the proposed annual data submission requirements in paragraph (b) and (d).

We note that Multi-State Plans, as defined in 45 CFR 155.1000(a), are subject to providing the data described in paragraph (b). The OPM will provide guidance on ESS reporting to issuers with whom it holds Multi-State Plan contracts.

Marketplace Survey

Sections 1313 and 1321(a) of the Affordable Care Act provide the Secretary with general authority to establish standards and regulations related to Exchanges, QHPs, and other components of title I of the Affordable Care Act. In § 155.1200(b)(3), we direct State Exchanges to submit performance monitoring data on an annual basis, which would include information on consumer satisfaction. Pursuant to this legal authority, HHS has proposed a consumer experience survey, or the Marketplace survey, to assess consumer experience with the Exchange.[53] Similar to the ESS, the Marketplace survey has been developed based on the core set of CAHPS® principles and the format and language of the survey drew from existing CAHPS® items, to the extent possible. However since the CAHPS® program does not have a comparable survey to assess entities similar to Exchanges, the Marketplace survey items are new and were developed based on research and feedback from public comment, technical experts and focus groups. We believe it is important to assess experience of consumers interacting with an Exchange including obtaining information regarding aspects such as the application and eligibility determination process for Medicaid/Children's Health Insurance Program (CHIP) coverage and the Insurance Affordability Programs. We anticipate that results from the Marketplace survey would drive quality improvement in Exchanges and provide regulators and stakeholders with information to use for monitoring and oversight purposes.

We intend to use a single contracted survey vendor to administer the annual Marketplace survey for each Exchange. We are currently in the survey developmental testing period for the Marketplace survey in the States in the Federally-facilitated Exchange and we anticipate the survey beta test to be conducted in early 2015 in all States. We intend to provide each Exchange with its respective Marketplace survey results, beginning in 2015, to be able to make improvements for upcoming open enrollment periods.

We seek further comment to inform future rulemaking regarding data provided by State Exchanges to conduct the Marketplace survey. We are considering directing a State Exchange to provide sampling data for four types of consumers in an Exchange including: (1) Potential applicants (individuals who provided contact information but did not submit an application); (2) potential enrollees (individuals who successfully applied and were given eligibility and plan information but did not enroll); (3) enrollees (individuals successfully enrolled); and (4) effectuated enrollees (individuals who have made their first premium payment). We are also considering directing a State Exchange to submit sampling data for the Marketplace survey based on language preference and disability status across each Exchange and we seek comment on the feasibility for a State Exchange to provide such data.

G. Part 158—Issuer Use of Premium Revenue: Reporting and Rebate Requirements

1. Subpart A—Disclosure and Reporting

a. ICD–10 Conversion Expenses (§ 158.150)

In September 2012, the Secretary changed the date on which issuers are required to adopt ICD–10 as the standard medical code set from October 1, 2013 to October 1, 2014. Because HHS cannot accept claims using the ICD–10 code sets prior to that date, issuers may incur conversion costs in 2014 that would otherwise have been incurred only in 2012 and 2013. In the 2012 and 2013 MLR reporting years, issuers were allowed to report their ICD–10 conversion costs as expenditures for activities that improve health care quality (QIA), up to 0.3 percent of an issuer's earned premium in the relevant State and market (MLR Final Rule, 76 FR 76574). Because the ICD–10 implementation date has been postponed to 2014, we propose that issuers be allowed to report their 2014 ICD–10 conversion costs as QIA in the 2014 reporting year, up to 0.3 percent of an issuer's earned premium in the relevant State and market. Although there are no plans to further postpone the ICD–10 implementation date, in recognition of this possibility and to avoid the need for additional regulatory changes, the regulatory change proposed herein permits issuers to include their ICD–10 conversion costs as QIA through the MLR reporting year in which ICD–10 implementation is required by the Secretary.

2. Subpart B—Calculating and Providing the Rebate

a. MLR and Rebate Calculations in States With Merged Individual and Small Group Markets (§§ 158.211, 158.220, 158.231)

Our previous rulemakings concerning PHS Act section 2718 permitted issuers to aggregate individual and small group market data for MLR purposes in States that require these two markets to be merged pursuant to section 1312(c)(3) of the Affordable Care Act. This proposed rule would modify the requirements for data aggregation in § 158.220(a) and § 158.231(a) to specify that the individual and small group market data must always be aggregated if a State requires these two markets to be merged. In addition, this proposed rule would modify the requirements regarding a higher State MLR standard in § 158.211 to clarify that if a State establishes a higher MLR standard for the merged market, this higher standard must be used to calculate any rebates for the merged market. These modifications would align the MLR methodology in the Federal MLR rule with the MLR methodologies applied by the affected States.

b. Accounting for Special Circumstances (§ 158.221)

On November 14, 2013, the Federal government announced a policy under which, if certain conditions were met, it would decline to enforce certain specified 2014 market reforms against certain non-grandfathered health insurance coverage in the individual or small group market renewed between January 1, 2014 and October 1, 2014, and requested that States adopt a similar non-enforcement policy.[54] CMS noted in the Proposed 2015 Payment Notice (78 FR 72322) that this transitional policy would not have been anticipated by issuers in setting rates for 2014 and stated that we were exploring modifications to different programs to help mitigate the impact of this policy.

Issuers that provided transitional coverage may have incurred additional administrative costs, such as expenses related to developing and sending required consumers notices, and creating and submitting new policy and

[53] Agency Information Collection Activities: Health Insurance Marketplace Consumer Experience Surveys: Enrollee Satisfaction Survey and Marketplace Survey Data Collection; Notice, 78 FR 65658 (Nov. 1, 2013).

[54] Letter to Insurance Commissioners, Center for Consumer Information and Insurance Oversight, November 14, 2013. *Available at: http://www.cms.gov/CCIIO/Resources/Letters/Downloads/commissioner-letter-11-14-2013.pdf.*

rate filings. We also recognize that issuers of QHPs in the individual and small group markets may have incurred costs due to technical problems during the launch of the State and Federal Exchanges.

Pursuant to the direction under PHS Act 2718(c), our development of the standardized methodologies for calculating an issuer's MLR must be designed to ''take into account the special circumstances of smaller plans, different types of plans, and newer plans.'' In the MLR Interim Final Rule (75 FR 74864), HHS exercised this authority by making adjustments to the formula for calculating an issuer's MLR with respect to ''expatriate plans'' (i.e., policies that provide coverage to employees outside their country of citizenship, employees outside their country of citizenship and outside their employer's country of domicile, and non-U.S. citizens working in their home country) and ''mini-med'' plans (i.e., plans with a total annual benefit maximum of $250,000 or less).

In its discussion of the ''special circumstances'' that applied to expatriate plans, the Interim Final Rule noted that ''their unique nature results in a higher percentage of administrative costs in relation to premiums than plans that provide coverage primarily within the United States.'' [55] Examples of the higher administrative costs for these plans include: Identifying and credentialing providers worldwide in countries with different licensing and other requirements from those found in the United States, processing claims submitted in various languages that follow various billing procedures and standards, providing translation and other services to enrollees, and helping subscribers locate qualified providers in different countries. The Interim Final Rule also recognized the ''special circumstances'' that applied to mini-med plans. In this latter case, it was not higher administrative costs, but lower claims costs relative to administrative costs, due to the very low annual dollar limits of mini-med plans. In both cases, adjustments were made to the MLR methodology as applied to such plans so that they would not be required to pay rebates based on their plan design, even if they were relatively as efficient as other plans that are able to meet the MLR standard under the standard methodology.

Consistent with this approach, we are proposing to exercise our authority to account for the special circumstances of plans affected by the transitional policy or the technical problems during the launch of the State and Federal Exchanges. These adjustments would only extend to issuers in the individual and small group markets that offered transitional coverage or participated in the State and Federal Exchanges, and only for the 2014 reporting year. A transitional policy cost adjustment to the formula for calculating an issuer's MLR would not apply in States that did not implement the transitional policy, or in States that did, to issuers that did not elect to implement it.

With respect to the adjustment for issuers offering transitional coverage, we are proposing that the MLR calculation methodology for the individual and small group markets would be changed to allow these issuers to multiply the incurred claims and expenses for quality improving activities incurred in 2014 in the MLR numerator by 1.0001. This adjustment takes into account the fact that the multiplier would be applied to the issuer's entire experience in 2014, which may also include experience for plans other than transitional coverage in that State and market. In developing this adjustment, we considered the following costs as they relate to the transitional policy: (1) Developing and sending required notices; (2) actuarial work, including that with respect to premium stabilization programs; (3) regulatory and rate filings; and (4) activities related to re-contracting.

With respect to the adjustment for issuers offering coverage through the State and Federal Exchanges, we are proposing that the MLR calculation methodology for the individual and small group markets would be changed to allow issuers participating in the Exchanges to multiply the incurred claims and expenses for quality improving activities incurred in 2014 in the MLR numerator by 1.0004. This adjustment takes into account the fact that the multiplier would be applied to the issuer's entire experience in 2014, which may also include experience for plans offered off the Exchange in that State and market. In developing this adjustment, we considered the following costs as they relate to the technical issues during the launch of the State and Federal Exchanges: (1) Information technology (IT) development and testing; (2) IT system modifications and re-programming; (3) providing feedback to CMS or a State on functionality and data transmission; (4) assistance to enrollees (e.g., enhanced call center activity); (5) engaging in pilot projects relating to direct enrollment; (6) developing technical ''tickets'' for the CMS or a State help desk; (7) work with the Exchange(s) to resolve these technical problems; (8) manual processing of enrollment data, including but not limited to enrollment and payment data template creation, monthly submission of data reports, and monthly submission of data accuracy certification forms; and (9) development of other manual workarounds.

HHS believes that these adjustments would appropriately account for the special circumstances related to implementation of the transitional policy and the rollout of the Exchanges, while still requiring issuers to comply with the statutory MLR requirement.

In addition to seeking comment on the above proposed approach, we also invite comment on other options for making an appropriate adjustment to the MLR formula to account for the unanticipated costs related to the transitional policy and the Exchange implementation.

c. Distribution of *De Minimis* Rebates (§ 158.243)

The MLR December 7, 2011 final rule defines the threshold amounts below which rebates are considered to be *de minimis* and sets forth the provisions for distribution of such rebates. In this proposed rule, we propose to amend the provisions for *de minimis* rebates in § 158.243 to clarify how issuers must distribute rebates where (1) all of an issuer's rebates are *de minimis,* or (2) distribution of *de minimis* rebates to enrollee(s) whose rebates are not *de minimis* would result in an enrollee receiving a rebate that exceeds the enrollee's annual premium. We propose that in these two situations, the issuer must distribute *de minimis* rebates to enrollees in the policies that generated the *de minimis* rebates. The current *de minimis* rebate provisions allow issuers not to distribute *de minimis* rebates to enrollees in the policies that generated those rebates, but instead to aggregate such rebates and distribute them to other enrollees whose rebates are not *de minimis.*

IV. Collection of Information Requirements

Under the Paperwork Reduction Act (PRA) of 1995, we are required to provide 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. This proposed rule contains information collection requirements (ICRs) that are subject to review by OMB. In order to fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the Paperwork

[55] 75 CFR 74871.

Reduction Act of 1995 requires that we solicit comment on the following issues:

- The need for the information collection and its usefulness in carrying out the proper functions of our agency.
- The accuracy of our estimate of the information collection burden.
- The quality, utility, and clarity of the information to be collected.
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

We are soliciting public comment on each of these issues, which contain ICRs.

A. ICRs Regarding Recertification for Certified Application Counselors (§ 155.225)

Under proposed § 155.225(d)(7), certified application counselors would be required to be recertified on at least an annual basis after successfully completing recertification training as required by the Exchange. Each Exchange would be required to establish its own recertification process and standards consistent with these requirements. We expect that establishing a process for recertification would include creating a recertification request form (or similar document) in Exchanges that directly certify certified application counselors. We estimate that up to 18 State Exchanges would develop their own recertification request form.[56] We estimate that the development of a recertification request form, as may be applicable for Exchanges that directly certify certified application counselors would take a health policy analyst (at $49.35 labor cost per hour) up to 1 hour to create, a senior manager (at $79.08 cost per hour) up to .5 hours (30 minutes) for review, and an attorney up to .5 hours (at $90.15 labor cost per hour) for legal review. We estimate that the one-time cost burden would be two hours with a cost burden of $134 for each Exchange, and the total burden for 18 State Exchanges would be 36 hours with a cost burden of $2,412.

There are recordkeeping requirements associated with developing and maintaining a request form. We estimate that the time burden associated with maintaining a copy of the request form would be .016 hours (1 minute); we assume a mid-level health policy analyst would maintain the form through electronic copies at minimal cost, which we estimate as $0.79 as a one-time requirement for the Exchange. The total burden for 18 Exchanges would be 1.08 hours and the total cost burden would be $14.22.

There would also be third-party disclosure requirements for 18 State Exchanges associated with reviewing each certified application counselor's recertification request, which would require the Exchange to notify the individual of the result of its review and issue a new certificate for each individual who successfully completes recertification. This notice requirement would apply to the Exchange on an annual basis. We estimate that it would take a mid-level health policy analyst in the Exchange up to .08 hours (5 minutes) to notify an individual. The estimated cost burden is $4.11 for each individual notice, including the certificate. For purposes of this analysis, we estimate that there would be approximately 30,000 certified application counselors nationwide, or approximately 10,600 application counselors in 18 State Exchanges. The total cost burden would be approximately $2,422 for each State Exchange. The total burden for 18 State Exchanges would be approximately 883 hours and the total cost burden would be $43,593. There would be recordkeeping requirements associated with issuing each individual notice. We estimate that the time burden associated with maintaining a copy of the notice and certificate would be .016 hours (1 minute); we assume a mid-level health policy analyst, with a labor cost of $49.35 an hour, would maintain the form through electronic copies at minimal cost, which we estimate as $0.79 per notice for each individual certified application counselor. The total recordkeeping burden for 10,600 certified application counselors in 18 State Exchanges would be 170 hours and the total cost burden would be $8,374, or $265 per Exchange.

For Exchanges that designate organizations to directly certify certified application counselors under § 155.225(b)(1), there would be requirements associated with implementing a recertification process under the applicable Exchange's standards. We expect that this process would include creating and issuing a recertification request form (or similar document) for an organization's certified application counselors to submit to indicate their intention to be recertified and provide an updated conflicts of interest disclosure or other attestations as may be required. We estimate that up to 5,000 designated organizations would develop their own recertification request form. We estimate that the development of a recertification request form would take a health policy analyst (at $49.35 labor cost per hour) up to 1 hour to create, a senior manager (at $79.08 labor cost per hour) up to .5 hours (30 minutes) for review, and an attorney (at $90.15 labor cost per hour) up to .5 hours (30 minutes) for legal review. We estimate that the one-time cost burden would be $134 for each organization. The total one-time burden for 5,000 organizations nationwide would be 10,000 hours and the total cost burden would be $670,000.

There would be recordkeeping requirements associated with developing and maintaining a request form. We estimate that the time burden associated with maintaining a copy of the request form would be .016 hours (1 minute); we assume a mid-level health policy analyst with a labor cost of $49.35 an hour would maintain the form through electronic copies at minimal cost, which we estimate as $0.79 as a one-time requirement for each organization. The total one-time burden for 5,000 organizations nationwide would be 80 hours and the total cost burden would be $3,950.

There would also be third-party disclosure requirements for designated organizations associated with reviewing each certified application counselor's recertification request, which would require the organization to notify the individual of the result of its review and issue a new certificate as appropriate. This notice requirement would apply to the organization on an annual basis. For purposes of estimating the burden on designated organizations, we assume that of the estimated 30,000 certified application counselors nationwide, approximately 19,400 would be directly certified by designated organizations, or four certified applications counselors on average per designated organization. We estimate that it would take a mid-level health policy analyst up to .08 hours (5 minutes) to notify an individual and issue a new certificate. The estimated cost burden is $4.11 for each individual notice. For an estimated 19,400 certified application counselors nationwide, or approximately four certified application counselors on average in each organization, the total cost burden would be approximately $16.44 for each organization. The total burden for 5,000 designated organizations nationwide would be approximately 1,617 hours and the total cost burden would be approximately $79,734.

There would be recordkeeping requirements associated with issuing a certificate. We estimate that the time burden associated with maintaining a copy of each certificate issued at recertification would be .016 hours (1

[56] We estimate 18 State Exchanges (which includes Utah) will develop their own processes for recertification. HHS will establish a single process in all FFEs.

minute); we assume a mid-level health policy analyst with a labor cost of $49.35 an hour would maintain the form through electronic copies at minimal cost, which we estimate as $0.79 as a per certificate for each organization. The total recordkeeping cost per organization would be $3.16. The total burden for 5,000 organizations nationwide would be 323 hours and the total cost burden would be approximately $15,326.

There would be third-party disclosure requirements for individual certified application counselors associated with completing the requirements for recertification, whether done directly through the Exchange or through an Exchange-designated certified application counselor organization. Such recertification requirements would include completing Exchange required training and might also include satisfying other requirements consistent with the Exchange-established processes, such as providing conflicts of interest disclosures, other attestations and submitting a recertification request form (or similar document) and other attestations. These requirements would apply to certified application counselors on an annual basis. Although nothing prohibits individual certified application counselors or organizations from being funded through sources such as applicable private, State, or Federal programs, we expect that certified application counselors would not be guaranteed any specific funding. We estimate the professional wage of certified application counselors for this type of work as equivalent to that of an eligibility interviewer for assistance from government programs and agency resources. We estimate that it would take a certified application counselor with a labor cost of $26.65 an hour up to 0.17 hours (10 minutes) to complete and submit the recertification request to the organization or Exchange, as applicable. The estimated cost burden would be $4.53 for each individual seeking recertification. We estimate that there would be approximately 30,000 recertification requests provided, for a total burden of 5,000 hours and a total cost burden of $135,915 for all certified application counselors nationwide.

There would be third-party disclosure requirements associated with taking recertification training. We expect that an individual certified application counselor would provide proof to the organization or Exchange that he or she has successfully completed the recertification training, in accordance with the Exchange's process. We estimate that it would take a certified application counselor with a labor cost of $26.65 an hour up to .03 hours (2 minutes) to provide the training certificate to the organization or Exchange, as may be required. The total estimated cost burden is $0.80 for each individual seeking recertification. We estimate that there would be approximately 30,000 training certificates provided, and the total burden would be 1,000 hours, with a total cost burden of $24,000 for all certified application counselors nationwide.

In addition, there would be recordkeeping requirements associated with the training certification. We expect each person who receives training would obtain and maintain a record of training certification. We estimate that the time burden associated with maintaining proof of training certification is .016 hours (1 minute), since we assume this proof would be maintained through electronic copies, at minimal cost. The total cost estimated for each individual to maintain proof of training certification would be $0.43. The total burden would be 500 hours and the total cost burden would be $12,900 for all certified application counselors nationwide.

B. ICRs Regarding Consumer Authorization (§§ 155.210 and 155.215)

For purposes of the ICRs associated with this proposal, we use the same labor cost estimates that were used in the final Navigator and non-Navigator assistance personnel standards rule (Patient Protection and Affordable Care Act; Exchange Functions: Standards for Navigators and Non-Navigator Assistance Personnel, July 17, 2013, 78 FR 42842). Navigator personnel and non-Navigator assistance personnel to which § 155.215 applies are estimated to have a labor cost of $20 per hour. Navigator and non-Navigator assistance project leads to which § 155.215 applies are estimated to have a labor cost of $29 per hour. Navigator and non-Navigator senior executives to which § 155.215 applies are estimated to have a labor cost of $48 per hour. These are estimates commonly used for estimating paperwork burden and do not represent a recommendation or a requirement of how much Navigator and non-Navigator personnel to which § 155.215 applies are to be paid. There is nothing in the proposed regulations that would require any of these workers to be paid any specific amount.

In the ICR currently approved under OMB control number (OCN) 0938–1220, we noted that there were 105 Navigator grantee organizations at that time in FFEs, including SPEs, and we estimated that there were 3,000 individuals working as Navigators. We estimated the number of non-Navigator assistance project leads to be 300 and 1,800 for personnel and we use those estimates here as well.

In accordance with proposed § 155.210(e)(6) and § 155.215(g), Navigators, as well as those non-Navigator personnel to whom § 155.215 applies, would be required to maintain procedures to inform consumers of the functions and responsibilities of Navigators and non-Navigator assistance personnel (as applicable), and to obtain authorization for the disclosure of consumer information to the Navigator or non-Navigator assistance personnel (as applicable). This would be a one-time requirement for the organization. We estimate that it would take a Navigator or non-Navigator assistance personnel project lead up to 2 hours to create the form for providing authorization to applicants, and a Navigator or non-Navigator senior executive up to 1 hour to review the procedure, for a total time burden of up to 3 hours. We estimate the cost burden associated with creating this procedure would be $106 per organization. The total cost for all 105 Navigator grantee organizations is estimated to be $11,130. The total cost for all 300 non-Navigator assistance personnel organizations is estimated to be $31,800.

There are also recordkeeping requirements associated with developing and maintaining a model agreement and authorization form. Each organization is expected to maintain a copy of the executed forms. We estimate that the time burden associated with maintaining a copy of executed agreement and authorization forms for each consumer would be 0.016 hours (1 minute); we assume these would be maintained through electronic copies with minimal cost.

In addition, there would be burdens on individual Navigators, as well as those non-Navigator assistance personnel to whom § 155.215 applies. Under § 155.210(e)(6) and § 155.215(g), respectively, Navigators and non-Navigator assistance personnel would be required to inform consumers of the functions and responsibilities of Navigators and non-Navigator assistance personnel and obtain authorization for the disclosure of consumer information to a Navigator or non-Navigator assistance personnel prior to obtaining the consumer's personally identifiable information. In the final rule on certified application counselors (78 FR 42824, 42854–42855), we estimated that it would take a certified application counselor 0.25 hours (15 minutes) to provide consumers with information

about the functions and responsibilities of a certified application counselor, obtain their authorizations, and provide any applicable conflict of interest disclosures. Because here we are only estimating the time required to provide consumers with information about the functions and responsibilities of a Navigator or non-Navigator assistance personnel and obtain their authorization, we estimate that it would take a Navigator or non-Navigator assistance personnel 0.1667 hours (10 minutes) to perform this task. The total cost estimate for the consumer authorization process for Navigators and non-Navigator assistance personnel therefore would be $3.33. The total time burden on all 3,000 Navigators is estimated to be approximately 500 hours, and the total cost burden on all 3,000 Navigators is estimated to be $9,990. The total time burden on all 1,800 non-Navigator assistance personnel is estimated to be 300 hours, and the total cost burden on all 1,800 non-Navigator assistance personnel is estimated to be $5,994.

C. ICRs Regarding Enrollee Satisfaction & Marketplace Surveys (§§ 155.1200, 156.1105 and 156.1125)

In § 156.1105 of this proposed rule, we would establish a monitoring and appeals process for HHS-approved enrollee satisfaction survey vendors. Specifically, in § 156.1105(d), we would establish a process in which HHS would monitor approved vendors for ongoing compliance. HHS might require additional information from approved vendors to be periodically submitted in order to ensure continued compliance. We estimate that HHS would approve approximately 40 ESS vendors. We estimate that it would take no longer than one hour for each vendor (at a cost of $24.10 per hour) to comply with any additional monitoring by HHS. Therefore, we estimate a total annual burden of 40 hours for all vendors for a total cost burden estimate of $964.00.

In § 156.1105(e) of this proposed rule, we propose a process by which an enrollee satisfaction survey vendor that is not approved by HHS could appeal HHS's determination. It is estimated that filing an appeal with HHS would take no longer than one hour. We estimate that five survey vendors that apply would not be approved and all of those vendors would appeal HHS's determination and submit additional documentation to HHS. Therefore, we estimate five responses, for a total of five burden hours, for a total cost of $120.50.

The burden estimate associated with quality standards for QHP issuers related to the ESS outlined in § 156.1125 would include the time and effort required for QHP issuers to collect, submit and validate ESS data on an annual basis. The burden and cost related to the survey respondents and ESS vendors associated with the ESS has been approved under OCN 0938–1221. In addition, we estimate that each QHP would need an average of 54 hours or $1,349.60 for the ESS to be administered by mail, phone and/or by web for its QHPs. Assuming a total of 575 QHP issuers, we estimate that the annual burden would be 31,050 hours or $776,020.

The burden with the Marketplace survey under § 155.1200(b)(3) would include the time, cost and effort related to survey respondents and has been approved under OCN 0938–1221. In addition, we will revise the information collection currently approved under OCN 0938–1119 to account for any additional burden for an Exchange if sampling data is needed from State Exchanges for CMS to administer the Marketplace survey.

D. ICR Regarding Quality Rating System (§ 156.1120)

The burden and cost estimates associated with quality standards for QHP issuers related to the QRS outlined in § 156.1120 would include estimates for QRS measure data collection, validation, and submission to CMS. We estimate that a total of 575 QHP issuers would be collecting and reporting QRS measure data, by product type, using administrative data sources and medical records. Using the BLS labor category estimates for a general operations manager, computer programmer, business operations specialist, registered nurse, and medical records and health information analyst, the estimated annual cost and hourly burden for a QHP issuer would be $117,424 and 1650 hours, for an issuer who has performance measures data collection experience. We estimate that approximately eighty percent of all issuers, or 460 issuers, have such experience. We anticipate additional software purchases to generate measure data and rates and increased third-party data validation fees for issuers that do not have the experience in data collection and reporting for the QRS as proposed in § 156.1120. Therefore, we estimate that the additional cost burden for each of the remaining 115 issuers would be approximately $102,500 in the initial year as they develop their data collection systems and processes, for a total of approximately $11,787,500. We estimate $67,518,800 and 948,750 hours as the total annual burden for the anticipated 575 QHP issuers to collect and report QRS data.

E. ICRs Regarding Quality Standards for Exchanges (§§ 155.1400 and 155.1405)

In § 155.1400 and § 155.1405, we propose that each Exchange must display, on its Web site, quality rating and enrollee satisfaction survey result information for QHPs offered on the Exchange. We estimate 18 State Exchanges and the FFE would collect the relevant QRS and ESS information for display. The burden estimate associated with these standards would include collection of the necessary data by each Exchange to display on its Web site. This burden and cost for Exchanges are currently approved under ONC 0938–1156 in the total Web site site that provides information including ESS and quality ratings, on available QHPs. The provisions of this proposed rule would not affect the burden.

F. ICR Regarding Medical Loss Ratio Requirements (§§ 158.150, 158.211, 158.220, 158.221, 158.231 and 158.243)

This proposed rule would amend the MLR provisions regarding the treatment of ICD–10 conversion costs. This proposed rule further proposes MLR calculation adjustments for issuers affected by the transitional policy announced in the CMS letter dated November 14, 2013 and for issuers participating in the State and Federal Exchanges. This proposed rule would also clarify how issuers are to calculate their MLRs in States that require the small group market and individual market to be merged. In addition, this proposed rule would clarify how issuers must distribute *de minimis* rebates. Both MLRs and rebates are reported on the MLR annual reporting form.

The burden for the existing information collection requirement is approved under OCN 0938–1164. This includes the annual reporting form and instructions that are currently used by issuers to submit MLR information to HHS. The MLR annual reporting form collects information on all distributed and owed rebate amounts, regardless of whether they are *de minimis.* Prior to the July 31, 2015 deadline for the submission of the annual MLR report for the 2014 MLR reporting year, and in accordance with the PRA, HHS plans to solicit public comment and seek OMB approval for an updated MLR annual form that would reflect the changes in MLR calculations. In addition, although HHS is seeking OMB approval for updates to the MLR annual form that reflect changes in MLR calculations in States that require the small group market and individual market to be

merged, and changes that would allow issuers to separately report transitional coverage, these changes are not considered new reporting requirements as they utilize information that is a subset of information that issuers already submit to HHS. We do not anticipate that the proposed changes would increase the burden on issuers.

G. ICRs Regarding Civil Money Penalties (§§ 155.206 and 155.285)

Section 155.206 describes the bases and processes HHS proposes to use to impose CMPs on noncompliant consumer assistance personnel and organizations. Section 155.285 describes the bases and processes HHS proposes to use to impose CMPs on persons who provide false or fraudulent information required under section 1411(b) of the Affordable Care Act or who knowingly and willfully use or disclose information in violation of section 1411(g) of the Affordable Care Act. The ICRs proposed in these provisions are exempt from PRA requirements in accordance with 5 CFR 1320.4(a)(2) because this information would be collected during the conduct of an administrative action or investigation involving an agency against specific individuals or entities.

H. ICRs Regarding Fixed Indemnity Insurance, Minimum Essential Coverage, Certifications of Creditable Coverage and HIPAA Opt-Out Election Notice, Notice of Discontinuation, Notice of Renewal (§§ 146.152, 146.180, 147.106, 148.122, 148.124, 148.220, and 156.602)

In § 148.220 of this proposed rule, we propose that issuers of individual market fixed indemnity insurance include a notice in plan materials stating that the coverage is not a substitute for major medical coverage and that lack of minimum essential coverage may result in an additional payment with one's taxes. The notice requirement could be satisfied by inserting a statement into existing plan documents. HHS would provide the exact text of the notice and it would not need to be customized. In addition, under proposed § 156.602, issuers of foreign group health coverage would be required to provide notice to enrollees who are citizens or nationals of the United States of its minimum essential coverage status. Plan documents are usually reviewed and updated annually before a new plan year begins. Issuers would be able to insert the statements in their plan documents at that time at minimal cost. Once the notice is included in the plan documents the first year, no additional cost would be incurred in future years. Sections 146.152, 147.106 and 148.122 of this proposed rule provide that issuers that discontinue a product in the group or individual market, or that provide the option to renew coverage, would also be required to provide written notices to enrollees in a form and manner specified by the Secretary. HHS would provide the exact text of the notices and they would not need to be customized. The burden associated with these notices would not be subject to the Paperwork Reduction Act of 1995 in accordance with 5 CFR 1320.3(c)(2).

Certifications of creditable coverage under § 148.124 would no longer be required to be provided starting December 31, 2014. The burden is currently approved under OCN 0938–0702. In the individual market, the anticipated reduction in annual burden hours would be 835,517, with an anticipated reduction in cost of $25,625,306. The burden for HIPAA Opt-out Election notices under § 146.180 is currently approved under OCN 0938–0702 as well. Electronic submission of opt-out election notice will also reduce costs for plans by eliminating the need for mailing paper forms.

If you comment on these information collection requirements, please do either of the following:

1. Submit your comments electronically as specified in the **ADDRESSES** section of this proposed rule; or

2. Submit your comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: CMS Desk Officer, CMS–9949–P. Fax: (202) 395–6974; or *Email: OIRA_submission@omb.eop.gov*.

V. Regulatory Impact Analysis

A. Summary

This proposed rule addresses various requirements applicable to health insurance issuers, Exchanges, Navigators, non-Navigator assistance personnel, and other entities under the Affordable Care Act. It also proposes a number of amendments relating to the premium stabilization programs, the medical loss ratio program, certified application counselor programs, affordability exemptions, guaranteed availability and renewability of coverage, and quality reporting requirements. Additionally, it proposes the grounds for imposing CMPs on persons who provide false or fraudulent information to the Exchange and on persons improperly using or disclosing information; to modify standards related to opt-out provisions for self-funded non-Federal governmental plans and individual market provisions under the Health Insurance Portability and Accountability Act of 1996; and standards for recognition of certain types of foreign group coverage as minimum essential coverage.

CMS has crafted this rule to implement the protections intended by Congress in an economically efficient manner. We have examined the effects of this rule as required by Executive Order 12866 (58 FR 51735, September 1993, Regulatory Planning and Review), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), section 1102(b) of the Social Security Act, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), Executive Order 13132 on Federalism, and the Congressional Review Act (5 U.S.C. 804(2)). In accordance with OMB Circular A–4, CMS has quantified the benefits, costs and transfers where possible, and has also provided a qualitative discussion of some of the benefits, costs and transfers that may stem from this proposed rule.

B. Executive Orders 13563 and 12866

Executive Order 12866 (58 FR 51735) directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects; distributive impacts; and equity). Executive Order 13563 (76 FR 3821, January 21, 2011) is supplemental to and reaffirms the principles, structures, and definitions governing regulatory review as established in Executive Order 12866.

Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action that is likely to result in a proposed rule—(1) having an annual effect on the economy of $100 million or more in any one year, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also referred to as ''economically significant''); (2) creating a serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any 1 year), and a ''significant'' regulatory action is subject to review by the OMB. HHS has concluded that this rule is likely to have economic impacts of $100 million or more in any one year, and therefore meets the definition of ''significant rule'' under Executive Order 12866. Therefore, HHS has provided an assessment of the potential costs, benefits, and transfers associated with this proposed regulation.

1. Need for Regulatory Action

Starting in 2014, qualified individuals and qualified employers are able to obtain coverage provided through Exchanges. The proposed provisions, amendments and clarifications in this proposed rule would address stakeholder concerns and inquiries and ensure smooth functioning of health insurance markets and Exchanges and ensure that individuals have access to high quality and affordable health insurance coverage. In addition, this proposed rule would establish methodologies for calculating the MLR to address ICD–10 conversion costs, MLR and rebate calculations in States that require the individual and small group markets to be merged, the distribution of *de minimis* rebates, and to accommodate the special circumstances of issuers affected by the transitional policy announced in the CMS letter dated November 14, 2013, and issuers participating in the State and Federal Exchanges.

2. Summary of Impacts

In accordance with OMB Circular A–4, Table V.1 below depicts an accounting statement summarizing CMS's assessment of the benefits, costs, and transfers associated with this regulatory action. The period covered by the RIA is 2014–2018.

HHS anticipates that the provisions of this proposed rule will ensure that all consumers have access to quality and affordable health care and are able to make informed choices, ensure smooth operation of Exchanges, ensure that premium stabilization programs work as intended, provide flexibility to SHOPs and employers, and protect consumers from fraudulent and criminal activities. Affected entities such as QHP issuers, Navigators and non-Navigator assistance personnel, designated certified application counselor organizations, survey vendors, and States, would incur costs to comply with the proposed provisions, including administrative costs related to notices, surveys, training, and recertification requirements. In accordance with Executive Order 12866, HHS believes that the benefits of this regulatory action justify the costs.

TABLE V.1—ACCOUNTING TABLE

Benefits:

Qualitative:

* Ensure access to affordable and quality health insurance coverage for all individuals.
* Allow consumers to make informed choices.
* Lower out-of-pocket costs for individuals who purchase fixed indemnity insurance.
* Possible reduction in cost sharing due to adjustment in methodology for calculating annual limitations on cost-sharing and small group deductibles.
* Ensure sufficiency of funds in the reinsurance payment pool.
* Ensure consumer protection and privacy and security of PII.
* Discourage fraudulent or criminal activity by consumer assistance personnel and entities.
* Provide additional flexibility to SHOPs and employers and allow employers to select plans with updated rate information.
* Improve consistency of MLR calculations among issuers in States with merged individual and small group markets and improve accuracy of rebate payments.

Costs:	Estimate	Year dollar	Discount rate percent	Period covered
Annualized Monetized ($millions/year)	$48.78 million [1]	2013	7	2014–2018
	$49.52 million [1]	2013	3	2014–2018

Net annual costs to enrollees related to ESS and Marketplace survey; recertification of certified application counselors by States; administrative costs incurred by survey vendors to appeal application denials; administrative costs to QHP issuers related to data submissions for QRS and ESS administration; costs related to notice and disclosure requirements for certified application counselor recertification; consumer authorization for Navigators and non-Navigator personnel; and a reduction in costs for issuers in the individual market due to discontinuation of certification of creditable coverage.

Qualitative:

* Costs to certified application counselors to obtain required training for recertification.
* Reduction in costs to consumers due to ability to make requests to dismiss appeals by telephone.
* Possible increase in premiums due to adjustments in methodology for calculating annual limitations on cost-sharing and small group deductibles.

TABLE V.1—ACCOUNTING TABLE - CONTINUED

Transfers:	Estimate	Year dollar	Discount rate percent	Period covered
Annualized Monetized ($millions/year)	$2.93 million	2013	7	2014–2018
	$2.99 million	2013	3	2014–2018

Net annual transfer of rebate dollars to enrollees from shareholders or nonprofit stakeholders, resulting from adjustment in MLR methodology for issuers in States with merged individual and small group markets.

Qualitative:

* Possible reduction in rebates paid by issuers to enrollees due to adjustment in MLR methodology for issuers affected by the November 2013 transitional policy and unexpected costs during the implementation of the Exchanges, and to account for ICD–10 conversion costs.
* Possible transfer of transitional reinsurance program funds from the Federal government to non-grandfathered reinsurance-eligible plans in the individual market.
* Possible increase in total risk corridors payment amounts made by the Federal government and decrease in total risk corridors receipts, although the Federal government intends to implement the risk corridors program in a budget neutral manner.

1. *Note:* Approximately $13 million in costs are estimated in the RIA below and the remaining costs related to ICRs are estimated in section IV above.

3. Anticipated Benefits, Costs and Transfers

The impacts of the existing regulations that are being amended and clarified in this proposed rule have already been addressed in RIAs included in previous rulemaking. This RIA only includes the impacts of new provisions and any changes to previous estimates as a result of amendments to existing provisions.

Benefits

Provisions of this proposed rule would ensure that all individuals have access to affordable and quality health insurance coverage and the necessary information to make informed choices. Making quality rating and enrollee satisfaction survey information available to consumers would allow them to make informed choices and provide issuers with an incentive to improve quality of care and consumer experience. The results from the Marketplace survey would drive quality improvement in Exchanges and provide regulators and stakeholders with information to use for monitoring and oversight purposes. The proposed amendments to special enrollment periods would ensure that individuals who experience loss of coverage or exceptional circumstances have continued access to healthcare. The proposal to designate foreign group health coverage for individuals on expatriate status as minimum essential coverage would ensure that such individuals have appropriate coverage while abroad or visiting the United States.

The proposed amendments for fixed indemnity insurance would allow such plans to be sold as secondary to other health insurance coverage that meets the definition of minimum essential coverage. This would allow individuals that buy such coverage to lower their out-of-pocket costs.

The proposed adjustments to the transitional reinsurance program would ensure that the reinsurance pool is sufficient to provide the premium stabilization benefits intended by statute. The proposed adjustments to the risk corridors formula for the 2015 benefit year would help to mitigate issuers' unexpected administrative costs and uncertainties around operations and the risk pool, and to stabilize the market as it continues to transition to full compliance with Affordable Care Act requirements.

The proposed regulations would clarify some of the standards for Navigator and certified application counselor conduct that would ensure consumer protection and ensure that Navigators provide information and services concerning enrollment in QHPs in a fair and impartial manner and that certified application counselors act in consumers' best interests. The proposed rule would also provide HHS with the authority to impose CMPs on Navigators, non-Navigator assistance personnel, certified application counselors, and certified application counselor organizations in the FFE who violate the Exchange standards applicable to them. This would ensure that consumers interacting with the Exchange receive high-quality assistance and robust consumer protection. The proposed provisions to impose CMPs for provision of false or fraudulent information, and improper use or disclosure of information would also ensure privacy and security of consumers' PII.

The proposed amendments to the annual employer and employee enrollment periods in the SHOP would benefit SHOPs by providing issuers with the same amount of time to complete the SHOP QHP certification process as that available for the individual Exchange. Aligning the start dates for the employer election period with the start of individual market Exchange open enrollment for 2015 would provide Exchanges with a uniform timeline for improving and launching Exchange services for 2015. Additionally, a uniform QHP filing and review timeline for both markets for 2015 would reduce confusion and provide efficiencies to scale in review, providing potential resource savings to Exchanges and QHP issuers. Removing the required minimum lengths of both the employer election period and the employee open enrollment period would provide additional flexibility to SHOPs and employers and allow employers to select plans with the most up-to-date rate information.

The proposed amendment to provide for a one year transition policy under which a SHOP would be permitted to not implement employee choice in 2015 would alleviate concerns that HHS has with specific circumstances where employee choice would result in significant adverse selection in the State's small group market that cannot be remediated through the premium stabilization programs or the single risk pool, or that there would not be a meaningful choice of QHPs and/or stand-alone dental plans in the State's SHOP. Allowing for this transitional policy in 2015 will provide minimal disruption to small group markets.

The proposed amendment to our methodology for calculating the annual limitation on cost sharing and the annual limitation on small group deductibles could reduce cost sharing paid by some enrollees in the individual and group markets.

The proposed amendments to the MLR methodology in States that require the small group market and individual market to be merged would improve the

consistency of MLR calculations among issuers in those States and improve the accuracy of rebate payments.

The approaches we are considering to define the required contribution percentage would provide that determinations of affordability exemptions would take into account the rate of premium growth over the rate of income growth. We do not anticipate that these approaches would significantly alter the number of individuals who would be expected to enroll in health insurance plans or make shared responsibility payments.

Costs

Affected entities would incur costs to comply with the provisions of this proposed rule. Costs related to ICRs subject to PRA are discussed in detail in section IV and include administrative costs incurred by survey vendors to appeal application denials; costs to QHP issuers related to data submissions for QRS, ESS administration; costs related to notice and disclosure requirements for certified application counselor recertification, consumer authorization for Navigators and non-Navigator assistance personnel; and a reduction in costs for issuers in the individual due to discontinuation of certification of creditable coverage. In this section, we discuss other costs related to the proposed provisions.

Each Exchange must establish its own recertification process for certified application counselors and designated certified application counselor organizations. We expect that establishing a process for recertification would include updating recertification training materials in all Exchanges. We estimate that up to 18 State Exchanges will develop their own training materials. We expect that an Exchange would develop training materials for recertification on an annual basis. We assume that it would take a mid-level health insurance analyst (with an hourly labor cost of $49.35) 8 hours to update the training, 4 hours for a computer programmer (at $52.50 per hour) to update the online training module and 1 hour by a senior manager (at $79.08 per hour) to review. The total cost for each State Exchange is estimated to be approximately $680, and the total cost for 18 State Exchanges would be approximately $12,240.

The proposed requirement for appeals entities to dismiss an appeal if the request is received via telephonic signature (if the appeals entity is capable of accepting telephonic withdrawals) would make the process more efficient and may reduce costs to the appellant.

The enrollee satisfaction survey would impact enrollees responding to the survey, survey vendors and QHP issuers. In 2014, a psychometric test of the survey would be carried out, while in 2015 a beta test would be performed. The cost to issuers is addressed in section IV. We anticipate that in 2014, 4,200 enrollees would participate in the psychometric test and in 2015 onwards, 6,000,040 enrollees would complete the survey. The total cost in 2014 of administering the survey to enrollees is estimated to be approximately $45,549 and the total cost to enrollees and survey vendors is estimated to be approximately $6,507,964 in 2015 and future years. In 2014, only one survey vendor would conduct the psychometric test and in the following years, about 40 vendors are expected to conduct the survey.[57] In addition, each QHP issuer would have to contract with an ESS vendor. We estimate approximately $16,000 as the annual cost for a QHP issuer to contract with an ESS vendor, for a total annual cost of $9.2 million for 575 QHP issuers.

The Marketplace survey would be administered by a survey vendor under contract with HHS. A psychometric test would be conducted in 2014 with a beta test in 2015. Consumers would incur burden to respond to the survey. We estimate that each response would take 0.4 hours for a total of 3,150 responses requiring 1,260 hours in 2014 and a total of 61,200 responses requiring 24,480 hours in 2015 onwards. Total costs would be approximately $30,366 in 2014 and $589,968 in following years.[58]

The proposed amendment to our methodology for calculating the annual limitation on cost sharing and the annual limitation on small group deductibles could lead some issuers to increase premiums slightly, potentially resulting in higher premiums for consumers.

Transfers

Currently, the MLR regulation permits inclusion of ICD–10 conversion costs in quality improving activity expenses only through the 2013 MLR reporting year. However, the Secretary has changed the date by which issuers are required to adopt ICD–10 as the standard medical code set from October 1, 2013 to October 1, 2014. Therefore, this proposed rule proposes to permit issuers to include their ICD–10 conversion costs through the MLR reporting year in which the Secretary requires conversion to be completed, which is currently expected to be 2014. Based on the 2012 MLR data, we estimate that the current ICD–10 provision reduced total rebates for 2012 by less than 2 percent. To the extent issuers may have completed a substantial portion of ICD–10 conversion prior to 2014, we expect that the impact of the proposed change on the 2014 rebates would be even smaller.

This proposed rule also proposes to account for the special circumstances of issuers affected by the CMS November 2013 transitional policy by allowing those issuers to multiply the incurred claims and expenses for quality improving activities incurred in 2014 in the MLR numerator by 1.0001. This adjustment would be limited to issuers that provided transitional coverage in the individual or small group markets in States that adopted the transitional policy. In addition, this proposed rule proposes to account for the special circumstances of the issuers that provided coverage through the State and Federal Exchanges by allowing those issuers to multiply the incurred claims and expenses for quality improving activities incurred in 2014 in the numerator by 1.0004. This adjustment would be limited to issuers offering coverage in the individual or small group markets through the Exchanges. Based on the 2012 MLR data, we estimate that the proposed adjustment for issuers affected by the transitional policy and for issuers affected by the Exchanges rollout might reduce the total rebates by 0.5 percent for 2014.

In addition, this proposed rule proposes to amend the MLR methodology to clarify how issuers must calculate MLRs in States that require the small group market and individual market to be merged for MLR calculation purposes. This would improve the consistency of MLR calculations among issuers in those States and improve the accuracy of rebate payments. Currently, only Massachusetts, Vermont, and the District of Columbia require the small group market and individual market to be merged (the Vermont and the District of Columbia requirements take effect in 2014). If an issuer met the respective MLR standards in the separate markets,

[57] Detailed burden estimates can be found in the Supporting Statement for the Health Insurance Marketplace Consumer Experience Surveys: Enrollee Satisfaction Survey and Marketplace Survey Data Collection, found at *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html*.

[58] Detailed burden estimates can be found in the Supporting Statement for the Health Insurance Marketplace Consumer Experience Surveys: Enrollee Satisfaction Survey and Marketplace Survey Data Collection, found at *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html*.

then this provision would not have any impact on rebates. However, if an issuer met the MLR standards only in one market and merging the two markets would result in the issuer meeting (or being unable to meet) the MLR standards in the merged market, the issuer might have to pay lower (or higher) rebates and there would be a transfer from enrollees to issuers (or from issuers to enrollees). Based on the 2012 MLR data, we anticipate that the proposed change might result in issuers paying an additional $3.8 million in rebates.

This proposed rule also proposes that issuers must distribute rebates directly to enrollees where (1) all of an issuer's rebates are *de minimis,* or (2) distribution of *de minimis* rebates to enrollee(s) whose rebates are not *de minimis* would result in an enrollee receiving a rebate that exceeds the enrollee's annual premium. The current *de minimis* rebate provisions allow issuers not to distribute *de minimis* rebates to enrollees, but instead to aggregate such rebates and distribute them to enrollees whose rebates are not *de minimis.* With respect to the first proposed *de minimis* provision, the current *de minimis* rebate provisions do not account for a situation where all of an issuer's rebates are *de minimis.* It is presumed that in such a circumstance, issuers would distribute the *de minimis* rebates to all enrollees whose rebates are *de minimis* since these issuers would not have any enrollees with non-*de minimis* rebates; therefore, we do not consider the proposed clarification to create any additional burden. We are currently aware of one issuer that was in this situation, but more issuers may benefit from this clarification as they begin to come closer to meeting the MLR standard in future years. With respect to the second proposed *de minimis* provision, we are not currently aware of any issuers that experienced this circumstance. Further, there should not be any impact to the total amount of rebates disbursed because the changes proposed here only impact the recipient of rebates and not the total amount paid.

In this proposed rule, we propose to revise our allocation of reinsurance contributions collected for the 2014 and 2015 benefit years so that reinsurance contributions collected are allocated first to the reinsurance pool and administrative expenses and second to payments to the U.S. Treasury. We expect that this proposal would not have a significant effect on transfers, because we estimate that we will collect the full amount of reinsurance contributions. This proposal could lower premiums by reducing the uncertainty associated with reinsurance payments to non-grandfathered plans in the individual market that are eligible for such payments under 45 CFR 153.234.

The Affordable Care Act creates a temporary risk corridors program for the years 2014, 2015, and 2016 that applies to QHPs, as defined in § 153.500. The risk corridors program creates a mechanism for sharing risk for allowable costs between the Federal government and QHP issuers. The Affordable Care Act establishes the risk corridors program as a Federal program; consequently, HHS will operate the risk corridors program under Federal rules with no State variation. The risk corridors program will help protect against inaccurate rate setting in the early years of the Exchanges by limiting the extent of issuer losses and gains. For the 2015 benefit year, we are proposing an adjustment to the risk corridors formula that would help mitigate potential QHP issuers' unexpected administrative costs. Although our initial modeling suggests that this adjustment could increase the total risk corridors payment amount made by the Federal government and decrease risk corridors receipts, we estimate that, even with this change, the program can be implemented in a budget neutral manner.

C. Regulatory Alternatives

Under the Executive Order, CMS is required to consider alternatives to issuing rules and alternative regulatory approaches. CMS considered the regulatory alternatives below:

1. Collecting ESS Data at the Product Level Instead of Each Product per Metal Tier

Under this alternative, HHS would require QHPs to collect ESS data from a single sample for each product (versus each product in each metal tier). This option would reduce the cost for issuers who offer the same product in multiple tiers. However, collecting data at the product level would prevent consumers from understanding differences in enrollee satisfaction at the individual product per tier level, which may vary with differences in cost sharing. This would reduce the benefits that consumers derive from ESS data.

2. Using Medicaid CAHPS as Is Instead of Adding Additional and New Questions to the ESS

Under this alternative, HHS would require QHPs to collect enrollee satisfaction information using the Medicaid CAHPS instrument without further enhancement. The ESS will include more questions than the Medicaid CAHPS—including detailed questions about the patient's costs—that are particularly appropriate to Exchange enrollees. Eliminating these questions would reduce the cost to issuers, but also reduce benefits that consumers derive from the ESS data.

3. Collecting QRS Data for Each Product per Metal Tier Instead of at the Product Level

Under this alternative, HHS would require QHPs to collect the QRS data at the same level (individual product per metal tier) as they collect ESS information. Assuming that QHPs offer each product in two metal tiers this option would double the cost to QHPs of collecting QRS data. However, it might not appreciably increase consumer information about QHPs in the early years of the Exchanges if the quality of care in the same product does not differ significantly within tiers (i.e., the variation should only be by the configuration of cost sharing within a limited range of actuarial value). Further, a QHP's enrollment size at the product metal level may be too small in the early years of Exchange implementation to ensure reliable results.

4. Using the Medicare Advantage (MA) CAHPS Instrument and Star System

Under this alternative, HHS would require QHPs to collect enrollee satisfaction information from Exchange enrollees using the MA CAHPS instrument. The ESS presently includes 29 more questions, than MA CAHPS. Use of the MA CAHPS would reduce the cost to consumers and also the QHP cost of data entry. However, the MA CAHPS instrument and Star ratings are designed for a different population and are not necessarily suitable to measure experience among Exchange enrollees. It also would have limited applicability for use by consumers for QHP comparison and selection purposes.

CMS believes that the options adopted for this proposed rule would be more efficient ways to extend the protections of the Affordable Care Act to enrollees without imposing significant burden on issuers and States.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires agencies that issue a rule to analyze options for regulatory relief of small businesses if a rule has a significant impact on a substantial number of small entities. The RFA generally defines a ''small entity'' as—(1) a proprietary firm meeting the size

standards of the Small Business Administration (SBA), (2) a nonprofit organization that is not dominant in its field, or (3) a small government jurisdiction with a population of less than 50,000 (States and individuals are not included in the definition of ''small entity''). CMS uses as its measure of significant economic impact on a substantial number of small entities a change in revenues of more than 3 percent to 5 percent.

As discussed in the Web Portal interim final rule with comment period published on May 5, 2010 (75 FR 24481), CMS examined the health insurance industry in depth in the RIA we prepared for the proposed rule on establishment of the Medicare Advantage program (69 FR 46866, August 3, 2004). In that analysis it was determined that there were few, if any, insurance firms underwriting comprehensive health insurance policies (in contrast, for example, to travel insurance policies or dental discount policies) that fell below the size thresholds for ''small entity'' established by the SBA. Based on data from MLR annual report submissions for the 2012 MLR reporting year,[59] out of 510 companies offering comprehensive health insurance policies nationwide, there are 58 small entities, each with less than $35.5 million in earned premiums, that offer individual or group health insurance coverage and would therefore be subject to the provisions of this proposed rule.[60] Forty-three percent of these small entities belong to holding groups, and many if not all of these small entities are likely to have other lines of business (e.g., insurance business other than health insurance, and business other than insurance) that would result in their revenues exceeding $35.5 million. Based on this analysis, HHS expects that the proposed provisions would not affect a substantial number of small issuers.

The proposed amendments to the annual employer and employee election periods in the SHOP, including removing the required minimum lengths of both the employer election period and the employee open enrollment period would benefit SHOPs and employers. HHS does not anticipate that this will impose any costs on small employers.

Some of the entities that voluntarily act as Navigators and non-Navigator assistance personnel subject to § 155.215, or as designated certified application counselor organizations, might be small entities and would incur costs to comply with the provisions of this proposed rule. It should be noted that HHS, in its role as the operator of the FFEs, does not impose any fees on these entities for participating in their respective programs, nor are there fees for taking the Federally required training or completing continuing education or recertification in FFEs. Further, the cost burden related to continuing education and recertification, and recordkeeping would generally be considered an allowed cost that would be covered by the Navigator grants for the FFEs, and these grant funds may be drawn down as the grantee incurs such costs. The costs associated with these proposals might also be covered by other compensation provided by an Exchange, such as payments through contracts to non-Navigator assistance personnel. Though it is very likely that all costs associated with these proposals would be largely covered by affected entities' and individuals' funding sources, HHS cannot guarantee that all such costs would be covered because of the possibility of budget limitations applicable to the FFE in any given period, and because there may be variations in how State Exchanges provide funding for these programs. To the extent that all such costs would not covered by these funding sources, other outside sources may also be available to cover unfunded costs that remain. Costs incurred by designated certified application counselor organizations related to continuing education and recertification and recordkeeping are expected to be low. In some circumstances funds from sources outside of the Exchange, including Federal funds such as Health Resources and Services Administration (HRSA) grants to health centers, or private or State funds might be available to cover certified application counselor costs.

E. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act (UMRA) of 1995 requires that agencies assess anticipated costs and benefits before issuing any proposed rule that includes a Federal mandate that could result in expenditure in any one year by State, local or tribal governments, in the aggregate, or by the private sector, of $100 million in 1995 dollars, updated annually for inflation. In 2014, that threshold level is approximately $141 million.

UMRA does not address the total cost of a proposed rule. Rather, it focuses on certain categories of cost, mainly those ''Federal mandate'' costs resulting from—(1) imposing enforceable duties on State, local, or tribal governments, or on the private sector; or (2) increasing the stringency of conditions in, or decreasing the funding of, State, local, or tribal governments under entitlement programs.

This proposed rule includes mandates on State, local, or tribal governments. Issuers, certified application counselors and Exchanges are expected to incur costs of approximately $13 million in 2014 and approximately $85 million in 2015 onwards to comply with the provisions of this proposed rule. However, beginning in 2015, issuers in the individual market would experience a reduction in costs of approximately $26 million due to the discontinuation of the certification of creditable coverage. Consistent with policy embodied in UMRA, this proposed rule has been designed to be the least burdensome alternative for State, local and tribal governments, and the private sector while achieving the objectives of the Affordable Care Act.

F. Federalism

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications.

States are the primary regulators of health insurance coverage. States will continue to apply State laws regarding health insurance coverage. However, if any State law or requirement prevents the application of a Federal standard, then that particular State law or requirement would be preempted. State requirements that are more stringent than the Federal requirements would be not be preempted by this proposed rule, unless they conflict with or prevent application of the provisions of title I of the Affordable Care Act within the meaning of section 1321(d) of the Affordable Care Act. Accordingly, States have significant latitude to impose requirements with respect to health insurance coverage that are more restrictive than the Federal law requirements.

The proposed amendment to § 155.225(d) would clarify that certified application counselors must meet any licensing, certification or other

[59] These data can be accessed at *http://www.cms.gov/CCIIO/Resources/Data-Resources/mlr.html*.

[60] The size threshold for ''small'' business established by the SBA is currently $35.5 million in annual receipts for health insurance issuers. See ''Table of Small Business Size Standards Matched To North American Industry Classification System Codes,'' effective July 23, 2013, U.S. Small Business Administration, available at *http://www.sba.gov*.

standards prescribed by the State so long as such standards do not prevent the application of the provisions of title I of the Affordable Care Act, within the meaning of section 1321(d) of the Affordable Care Act. The proposed provisions also specify State requirements applicable to Navigators, non-Navigator assistance personnel, or certified application counselors that would prevent the application of the provisions of title I of the Affordable Care Act, within the meaning of section 1321(d) of the Affordable Care Act. They include requirements that require referrals to entities or individuals not required to provide impartial information or act in a consumer's best interest, or prevent Navigators, non-Navigator assistance personnel, or certified application counselors from providing services to all individuals seeking assistance, or providing advice regarding substantive benefits or comparative benefits of different health plans; in FFEs conflict with Federal standards or make it impossible to fulfill required duties, as such requirements are applied or implemented in the State; in FFEs, render ineligible otherwise eligible individuals or entities from participating as Navigators, non-Navigator assistance personnel subject to § 155.215 or certified application counselors under standards applicable to an FFE; and requiring that Navigators hold an agent or broker license or carry errors or omissions insurance.

Some States already have requirements for and publicly report health plan quality and outcomes data, and we want to encourage State flexibility and innovation, consistent with the Affordable Care Act. In addition to prominently displaying quality rating information for each QHP, as calculated by HHS in accordance with the QRS, a State Exchange may display additional QHP quality-related information, as appropriate.

In compliance with the requirement of Executive Order 13132 that agencies examine closely any policies that may have Federalism implications or limit the policymaking discretion of the States, HHS has engaged in efforts to consult with and work cooperatively with affected States. HHS has consulted with stakeholders on policies related to the operation of Exchanges, including the SHOP and the premium stabilization programs. HHS has held a number of listening sessions with State representatives to gather public input. HHS consulted with State representatives through regular meetings with the National Association of Insurance Commissioners (NAIC) and regular contact with States through the Exchange Establishment grant and Exchange Blueprint approval processes.

Throughout the process of developing this proposed rule, CMS has attempted to balance the States' interests in regulating health insurance issuers. By doing so, it is CMS' view that it has complied with the requirements of Executive Order 13132. Under the requirements set forth in section 8(a) of Executive Order 13132, and by the signatures affixed to this rule, HHS certifies that the CMS Center for Consumer Information and Insurance Oversight has complied with the requirements of Executive Order 13132 for the attached proposed rule in a meaningful and timely manner.

G. Congressional Review Act

This proposed rule is subject to the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 et seq.), which specifies that before a rule can take effect, the Federal agency promulgating the rule shall submit to each House of the Congress and to the Comptroller General a report containing a copy of the rule along with other specified information, and has been transmitted to Congress and the Comptroller General for review.

List of Subjects

45 CFR Part 146

Health care, Health insurance, Reporting and recordkeeping requirements.

45 CFR Part 147

Health care, Health insurance, Reporting and recordkeeping requirements, State regulation of health insurance.

45 CFR Part 148

Administrative practice and procedure, Health care, Health insurance, Penalties, Reporting and recordkeeping requirements.

45 CFR Part 153

Administrative practice and procedure, Adverse selection, Health care, Health insurance, Health records, Organization and functions (Government agencies), Premium stabilization, Reporting and recordkeeping requirements, Reinsurance, Risk adjustment, Risk corridors, Risk mitigation, State and local governments.

45 CFR Part 155

Administrative practice and procedure, Health care access, Health insurance, Reporting and recordkeeping requirements, State and local governments, Cost-sharing reductions, Advance payments of premium tax credit, Administration and calculation of advance payments of the premium tax credit, Plan variations, Actuarial value.

45 CFR Part 156

Administrative appeals, Administrative practice and procedure, Administration and calculation of advance payments of premium tax credit, Advertising, Advisory committees, Brokers, Conflict of interest, Consumer protection, Cost-sharing reductions, Grant programs—health, Grants administration, Health care, Health insurance, Health maintenance organization (HMO), Health records, Hospitals, American Indian/Alaska Natives, Individuals with disabilities, Loan programs—health, Organization and functions (Government agencies), Medicaid, Payment and collections reports, Public assistance programs, Reporting and recordkeeping requirements, State and local governments, Sunshine Act, Technical assistance, Women, and Youth.

45 CFR Part 158

Administrative practice and procedure, Claims, Health care, Health insurance, Health plans, Penalties, Reporting and recordkeeping requirements, Premium revenues, Medical loss ratio, Rebating.

For the reasons set forth in the preamble, the Department of Health and Human Services proposes to amend 45 CFR parts 146, 147, 148, 153, 155, 156, and 158 as set forth below:

PART 146—REQUIREMENTS FOR THE GROUP HEALTH INSURANCE MARKET

■ 1. The authority citation for part 146 continues to read as follows:

Authority: Secs. 2702 through 2705, 2711 through 2723, 2791, and 2792 of the PHS Act (42 U.S.C. 300gg–1 through 300gg–5, 300gg–11 through 300gg–23, 300gg–91, and 300gg–92).

■ 2. Section 146.152 is amended by—

■ A. Revising paragraphs (c)(1) and (f).

■ B. Redesignating paragraph (g) as paragraph (h).

■ C. Adding new paragraph (g).

The revision and addition reads as follows:

§ 146.152 Guaranteed renewability of coverage for employers in the group market.

* * * * *

(c) * * *

(1) The issuer provides notice in writing, in a form and manner specified

by the Secretary, to each plan sponsor provided that particular product in that market (and to all participants and beneficiaries covered under such coverage) of the discontinuation at least 90 days before the date the coverage will be discontinued;

* * * * *

(f) *Exception for uniform modification of coverage.* (1) Only at the time of coverage renewal may issuers modify the health insurance coverage for a product offered to a group health plan in the following—

(i) Large group market; and

(ii) Small group market if, for coverage available in this market (other than only through one or more bona fide associations), the modification is consistent with State law and is effective uniformly among group health plans with that product.

(2) For purposes of this paragraph (f), modifications made solely pursuant to applicable Federal or State law are considered a uniform modification of coverage. Other types of modifications are considered a uniform modification of coverage if the product that has been modified meets all of the following criteria:

(i) The product is offered by the same health insurance issuer (within the meaning of section 2791(b)(2) of the PHS Act).

(ii) The product is offered as the same product type (e.g., preferred provider organization (PPO) or health maintenance organization (HMO)).

(iii) The product covers a majority of the same counties in its service area;

(iv) The product has the same cost-sharing structure, except for variation in cost sharing solely related to changes in cost and utilization of medical care, or to maintain the same level of coverage described in sections 1302(d) and (e) of the Affordable Care Act.

(v) The product provides the same covered benefits, except for changes in benefits that cumulatively impact the rate for the product by no more than 2 percent (not including changes required by applicable Federal or State law).

(3) A State may establish criteria that broaden, but not restrict, the definition of a uniform modification of coverage under paragraph (f)(2) of this section.

(g) *Notice of renewal of coverage.* If an issuer is renewing coverage as described in paragraph (a) of this section, or uniformly modifying coverage as described in paragraph (f) of this section, the issuer must provide to each plan sponsor written notice of the renewal in a form and manner specified by the Secretary.

* * * * *

■ 3. Section 146.180 is revised to read as follows:

§ 146.180 Treatment of non-Federal governmental plans.

(a) *Opt-out election for self-funded non-Federal governmental plans*—(1) *Requirements subject to exemption.* The PHS Act requirements described in this paragraph are the following:

(i) Limitations on preexisting condition exclusion periods in accordance with section 2701 of the PHS Act as codified before enactment of the Affordable Care Act.

(ii) Special enrollment periods for individuals and dependents described under section 2704(f) of the PHS Act.

(iii) Prohibitions against discriminating against individual participants and beneficiaries based on health status under section 2705 of the PHS Act, except that the sponsor of a self-funded non-Federal governmental plan cannot elect to exempt its plan from requirements under section 2705(a)(6) and 2705(c) through (f) that prohibit discrimination with respect to genetic information.

(iv) Standards relating to benefits for mothers and newborns under section 2725 of the PHS Act.

(v) Parity in mental health and substance use disorder benefits under section 2726 of the PHS Act.

(vi) Required coverage for reconstructive surgery following mastectomies under section 2727 of the PHS Act.

(vii) Coverage of dependent students on a medically necessary leave of absence under section 2728 of the PHS Act.

(2) *General rule.* For plan years beginning on or after September 23, 2010, a sponsor of a non-Federal governmental plan may elect to exempt its plan, to the extent the plan is not provided through health insurance coverage (that is, it is self-funded), from one or more of the requirements described in paragraphs (a)(1)(iv) through (vii) of this section.

(3) *Special rule for certain collectively bargained plans.* In the case of a plan that is maintained pursuant to a collective bargaining agreement that was ratified before March 23, 2010, and whose sponsor made an election to exempt its plan from any of the requirements described in paragraphs (a)(1)(i) through (iii) of this section, the provisions of paragraph (a)(2) of this section apply for plan years beginning after the expiration of the term of the agreement.

(4) *Examples*—(i) *Example 1.* A non-Federal governmental employer has elected to exempt its self-funded group health plan from all of the requirements described in paragraph (a)(1) of this section. The plan year commences September 1 of each year. The plan is not subject to the provisions of paragraph (a)(1)(ii) of this section until the plan year that commences on September 1, 2011. Accordingly, for that plan year and any subsequent plan years, the plan sponsor may elect to exempt its plan only from the requirements described in paragraphs (a)(1)(iv) through (vii) of this section.

(ii) *Example 2.* A non-Federal governmental employer has elected to exempt its collectively bargained self-funded plan from all of the requirements described in paragraph (a)(1) of this section. The collective bargaining agreement applies to five plan years, October 1, 2009 through September 30, 2014. For the plan year that begins on October 1, 2014, the plan sponsor is no longer permitted to elect to exempt its plan from the requirements described in paragraph (a)(1) of this section. Accordingly, for that plan year and any subsequent plan years, the plan sponsor may elect to exempt its plan only from the requirements described in paragraphs (a)(1)(iv) through (vii) of this section.

(5) *Limitations.* (i) An election under this section cannot circumvent a requirement of the PHS Act to the extent the requirement applied to the plan before the effective date of the election.

Example 1. A plan is subject to requirements of section 2727 of the PHS Act, under which a plan that covers medical and surgical benefits with respect to a mastectomy must cover reconstructive surgery and certain other services following a mastectomy. An enrollee who has had a mastectomy receives reconstructive surgery on August 24. Claims with respect to the surgery are submitted to and processed by the plan in September. The group health plan commences a new plan year each September 1. Effective September 1, the plan sponsor elects to exempt its plan from section 2727 of the PHS Act. The plan cannot, on the basis of its exemption election, decline to pay for the claims incurred on August 24.

(ii) If a group health plan is co-sponsored by two or more employers, then only plan enrollees of the non-Federal governmental employer(s) with a valid election under this section are affected by the election.

(6) *Stop-loss or excess risk coverage.* For purposes of this section—

(i) Subject to paragraph (a)(6)(ii) of this section, the purchase of stop-loss or excess risk coverage by a self-funded non-Federal governmental plan does not prevent an election under this section.

(ii) Regardless of whether coverage offered by an issuer is designated as ''stop-loss'' coverage or ''excess risk'' coverage, if it is regulated as group health insurance under an applicable State law, then for purposes of this section, a non-Federal governmental plan that purchases the coverage is considered to be fully insured. In that event, a plan may not be exempted under this section from the requirements described in paragraph (a)(1) of this section.

(7) *Construction.* Nothing in this part should be construed as imposing collective bargaining obligations on any party to the collective bargaining process.

(b) *Form and manner of election*—(1) *Election requirements.* The election must meet the following requirements:

(i) Be made in an electronic format in a form and manner as described by the Secretary in guidance.

(ii) Be made in conformance with all of the plan sponsor's rules, including any public hearing requirements.

(iii) Specify the beginning and ending dates of the period to which the election is to apply. This period can be either of the following periods:

(A) A single specified plan year, as defined in § 144.103 of this subchapter.

(B) The ''term of the agreement,'' as specified in paragraph (b)(2) of this section, in the case of a plan governed by collective bargaining.

(iv) Specify the name of the plan and the name and address of the plan administrator, and include the name and telephone number of a person CMS may contact regarding the election.

(v) State that the plan does not include health insurance coverage, or identify which portion of the plan is not funded through health insurance coverage.

(vi) Specify each requirement described in paragraph (a)(1) of this section from which the plan sponsor elects to exempt the plan.

(vii) Certify that the person signing the election document, including (if applicable) a third party plan administrator, is legally authorized to do so by the plan sponsor.

(viii) Include, as an attachment, a copy of the notice described in paragraph (f) of this section.

(2) *''Term of the agreement'' defined.* Except as provided in paragraphs (b)(2)(i) and (ii), for purposes of this section ''term of the agreement'' means all group health plan years governed by a single collective bargaining agreement.

(i) In the case of a group health plan for which the last plan year governed by a prior collective bargaining agreement expires during the bargaining process for a new agreement, the term of the prior agreement includes all plan years governed by the agreement plus the period of time that precedes the latest of the following dates, as applicable, with respect to the new agreement:

(A) The date of an agreement between the governmental employer and union officials.

(B) The date of ratification of an agreement between the governmental employer and the union.

(C) The date impasse resolution, arbitration or other closure of the collective bargaining process is finalized when agreement is not reached.

(ii) In the case of a group health plan governed by a collective bargaining agreement for which closure is not reached before the last plan year under the immediately preceding agreement expires, the term of the new agreement includes all plan years governed by the agreement excluding the period that precedes the latest applicable date specified in paragraph (b)(2)(i) of this section.

(3) *Construction*—(i) *Dispute resolution.* Nothing in paragraph (b)(1)(ii) of this section should be construed to mean that CMS arbitrates disputes between plan sponsors, participants, beneficiaries, or their representatives regarding whether an election complies with all of a plan sponsor's rules.

(ii) *Future elections not preempted.* If a plan must comply with one or more requirements described in paragraph (a)(1) of this section for a given plan year or period of plan coverage, nothing in this section should be construed as preventing a plan sponsor from submitting an election in accordance with this section for a subsequent plan year or period of plan coverage.

(c) *Filing a timely election*—(1) *Plan not governed by collective bargaining.* Subject to paragraph (c)(4) of this section, if a plan is not governed by a collective bargaining agreement, a plan sponsor or entity acting on behalf of a plan sponsor must file an election with CMS before the first day of the plan year.

(2) *Plan governed by a collective bargaining agreement.* Subject to paragraph (d)(4) of this section, if a plan is governed by a collective bargaining agreement that was ratified before March 23, 2010, a plan sponsor or entity acting on behalf of a plan sponsor must file an election with CMS before the first day of the first plan year governed by a collective bargaining agreement, or by the 45th day after the latest applicable date specified in paragraph (b)(2)(i) of this section, if the 45th day falls on or after the first day of the plan year.

(3) *Verifying timely filing.* For elections submitted via hard copy through U.S. Mail, CMS uses the postmark on the envelope in which the election is submitted to determine that the election is timely filed as specified under paragraphs (c)(1) or (2) of this section, as applicable. If the latest filing date falls on a Saturday, Sunday, or a State or Federal holiday, CMS accepts a postmark on the next business day.

(4) *Filing extension based on good cause.* CMS may extend the deadlines specified in paragraphs (c)(1) and (2) of this section for good cause if the plan substantially complies with the requirements of paragraph (e) of this section.

(5) *Failure to file a timely election.* Absent an extension under paragraph (c)(4) of this section, a plan sponsor's failure to file a timely election under paragraph (c)(1) or (2) of this section makes the plan subject to all requirements of this part for the entire plan year to which the election would have applied, or, in the case of a plan governed by a collective bargaining agreement, for any plan years under the agreement for which the election is not timely filed.

(d) *Additional information required*—(1) *Written notification.* If an election is timely filed, but CMS determines that the election document (or the notice to plan enrollees) does not meet all of the requirements of this section, CMS may notify the plan sponsor, or other entity that filed the election, that it must submit any additional information that CMS has determined is necessary to meet those requirements. The additional information must be filed with CMS by the later of the following dates:

(i) The last day of the plan year.

(ii) The 45th day after the date of CMS's written notification requesting additional information.

(2) *Timely response.* For submissions via hard copy via U.S. Mail, CMS uses the postmark on the envelope in which the additional information is submitted to determine that the information is timely filed as specified under paragraph (d)(1) of this section. If the latest filing date falls on a Saturday, Sunday, or a State or Federal holiday, CMS accepts a postmark on the next business day.

(3) *Failure to respond timely.* CMS may invalidate an election if the plan sponsor, or other entity that filed the election, fails to timely submit the additional information as specified under paragraph (d)(1) of this section.

(e) *Notice to enrollees*—(1) *Mandatory notification.* (i) A plan that makes the election described in this section must notify each affected enrollee of the

election, and explain the consequences of the election. For purposes of this paragraph (e), if the dependent(s) of a participant reside(s) with the participant, a plan need only provide notice to the participant.

(ii) The notice must be in writing and, except as provided in paragraph (e)(2) of this section with regard to initial notices, must be provided to each enrollee at the time of enrollment under the plan, and on an annual basis no later than the last day of each plan year (as defined in § 144.103 of this subchapter) for which there is an election.

(iii) A plan may meet the notification requirements of this paragraph (e) by prominently printing the notice in a summary plan description, or equivalent description, that it provides to each enrollee at the time of enrollment, and annually. Also, when a plan provides a notice to an enrollee at the time of enrollment, that notice may serve as the initial annual notice for that enrollee.

(2) *Initial notices.* (i) If a plan is not governed by a collective bargaining agreement, with regard to the initial plan year to which an election under this section applies, the plan must provide the initial annual notice of the election to all enrollees before the first day of that plan year, and notice at the time of enrollment to all individuals who enroll during that plan year.

(ii) In the case of a collectively bargained plan, with regard to the initial plan year to which an election under this section applies, the plan must provide the initial annual notice of the election to all enrollees before the first day of the plan year, or within 30 days after the latest applicable date specified in paragraph (b)(2)(i) of this section if the 30th day falls on or after the first day of the plan year. Also, the plan must provide a notice at the time of enrollment to individuals who—

(A) Enroll on or after the first day of the plan year, when closure of the collective bargaining process is reached before the plan year begins; or

(B) Enroll on or after the latest applicable date specified in paragraph (b)(2)(i) of this section if that date falls on or after the first day of the plan year.

(3) *Notice content.* The notice must include at least the following information:

(i) The specific requirements described in paragraph (a)(1) of this section from which the plan sponsor is electing to exempt the plan, and a statement that, in general, Federal law imposes these requirements upon group health plans.

(ii) A statement that Federal law gives the plan sponsor of a self-funded non-Federal governmental plan the right to exempt the plan in whole, or in part, from the listed requirements, and that the plan sponsor has elected to do so.

(iii) A statement identifying which parts of the plan are subject to the election.

(iv) A statement identifying which of the listed requirements, if any, apply under the terms of the plan, or as required by State law, without regard to an exemption under this section.

(f) *Subsequent elections*—(1) *Election renewal.* A plan sponsor may renew an election under this section through subsequent elections. The timeliness standards described in paragraph (c) of this section apply to election renewals under this paragraph (f).

(2) *Form and manner of renewal.* Except for the requirement to forward to CMS a copy of the notice to enrollees under paragraph (b)(1)(viii) of this section, the plan sponsor must comply with the election requirements of paragraph (b)(1) of this section. In lieu of providing a copy of the notice under (b)(1)(viii), the plan sponsor may include a statement that the notice has been, or will be, provided to enrollees as specified under paragraph (e) of this section.

(3) *Election renewal includes provisions from which plan not previously exempted.* If an election renewal includes a requirement described in paragraph (a)(1) of this section from which the plan sponsor did not elect to exempt the plan for the preceding plan year, the advance notification requirements of paragraph (e)(2) of this section apply with respect to the additional requirement(s) of paragraph (a) from which the plan sponsor is electing to exempt the plan.

(4) *Special rules regarding renewal of an election under a collective bargaining agreement*—(i) If protracted negotiations with respect to a new agreement result in an extension of the term of the prior agreement (as provided under paragraph (b)(2)(i) of this section) under which an election under this section was in effect, the plan must comply with the enrollee notification requirements of paragraph (e)(1) of this section, and, following closure of the collective bargaining process, must file an election renewal with CMS as provided under paragraph (c)(2) of this section.

(ii) If a single plan applies to more than one bargaining unit, and the plan is governed by collective bargaining agreements of varying lengths, paragraph (c)(2) of this section, with respect to an election renewal, applies to the plan as governed by the agreement that results in the earliest filing date.

(g) *Requirements not subject to exemption*—(1) *Genetic information.* Without regard to an election under this section that exempts a non-Federal governmental plan from any or all of the provisions of §§ 146.111 and 146.121, the exemption election must not be construed to exempt the plan from any provisions of this part 146 that pertain to genetic information.

(2) *Enforcement.* CMS enforces these requirements as provided under paragraph (j) of this section.

(h) *Effect of failure to comply with certification and notification requirements*—(1) *Substantial failure*—(i) *General rule.* Except as provided in paragraph (h)(1)(iii) of this section, a substantial failure to comply with paragraph (e) or (g)(1) of this section results in the invalidation of an election under this section with respect to all plan enrollees for the entire plan year. That is, the plan is subject to all requirements of this part for the entire plan year to which the election otherwise would have applied.

(ii) *Determination of substantial failure.* CMS determines whether a plan has substantially failed to comply with a requirement of paragraph (e) or paragraph (g)(1) of this section based on all relevant facts and circumstances, including previous record of compliance, gravity of the violation and whether a plan corrects the failure, as warranted, within 30 days of learning of the violation. However, in general, a plan's failure to provide a notice of the fact and consequences of an election under this section to an individual at the time of enrollment, or on an annual basis before a given plan year expires, constitutes a substantial failure.

(iii) *Exceptions*—(A) *Multiple employers.* If the plan is sponsored by multiple employers, and only certain employers substantially fail to comply with the requirements of paragraph (e) or (g)(1) of this section, then the election is invalidated with respect to those employers only, and not with respect to other employers that complied with those requirements, unless the plan chooses to cancel its election entirely.

(B) *Limited failure to provide notice.* If a substantial failure to notify enrollees of the fact and consequences of an election is limited to certain individuals, the election under this section is valid only if, for the plan year with respect to which the failure has occurred, the plan agrees not to apply the election with respect to the individuals who were not notified and so informs those individuals in writing.

(2) *Examples*—(i)

Example 1. A self-funded, non-Federal group health plan is co-sponsored by 10 school districts. Nine of the school districts have fully complied with the requirements of paragraph (e) of this section, including providing notice to new employees at the time of their enrollment in the plan, regarding the group health plan's exemption under this section from requirements of this part. One school district, which hired 10 new teachers during the summer for the upcoming school year, neglected to notify three of the new hires about the group health plan's exemption election at the time they enrolled in the plan. The school district has substantially failed to comply with a requirement of paragraph (e) of this section with respect to these individuals. The school district learned of the oversight six weeks into the school year, and promptly (within 30 days of learning of the oversight) provided notice to the three teachers regarding the plan's exemption under this section and that the exemption does not apply to them, or their dependents, during the plan year of their enrollment because of the plan's failure to timely notify them of its exemption. The plan complies with the requirements of this part for these individuals for the plan year of their enrollment. CMS would not require the plan to come into compliance with the requirements of this part for other enrollees.

(ii)

Example 2. Two non-Federal governmental employers cosponsor a self-funded group health plan. One employer substantially fails to comply with the requirements of paragraph (e) of this section. While the plan may limit the invalidation of the election to enrollees of the plan sponsor that is responsible for the substantial failure, the plan sponsors determine that administering the plan in that manner would be too burdensome. Accordingly, in this example, the plan sponsors choose to cancel the election entirely. Both plan sponsors come into compliance with the requirements of this part with respect to all enrollees for the plan year for which the substantial failure has occurred.

(i) *Election invalidated.* If CMS finds cause to invalidate an election under this section, the following rules apply:

(1) CMS notifies the plan sponsor (and the plan administrator if other than the plan sponsor and the administrator's address is known to CMS) in writing that CMS has made a preliminary determination that an election is invalid, and states the basis for that determination.

(2) CMS's notice informs the plan sponsor that it has 45 days after the date of CMS's notice to explain in writing why it believes its election is valid. The plan sponsor should provide applicable statutory and regulatory citations to support its position.

(3) CMS verifies that the plan sponsor's response is timely filed as provided under paragraph (c)(3) of this section. CMS will not consider a response that is not timely filed.

(4) If CMS's preliminary determination that an election is invalid remains unchanged after CMS considers the plan sponsor's timely response (or in the event that the plan sponsor fails to respond timely), CMS provides written notice to the plan sponsor (and the plan administrator if other than the plan sponsor and the administrator's address is known to CMS) of CMS's final determination that the election is invalid. Also, CMS informs the plan sponsor that, within 45 days of the date of the notice of final determination, the plan, subject to paragraph (i)(1)(iii) of this section, must comply with all requirements of this part for the specified period for which CMS has determined the election to be invalid.

(j) *Enforcement.* To the extent that an election under this section has not been filed or a non-Federal governmental plan otherwise is subject to one or more requirements of this part, CMS enforces those requirements under part 150 of this subchapter. This may include imposing a civil money penalty against the plan or plan sponsor, as determined under subpart C of part 150.

(k) *Construction.* Nothing in this section should be construed to prevent a State from taking the following actions:

(1) Establishing, and enforcing compliance with, the requirements of State law (as defined in § 146.143(d)(1)), including requirements that parallel provisions of title XXVII of the PHS Act, that apply to non-Federal governmental plans or sponsors.

(2) Prohibiting a sponsor of a non-Federal governmental plan within the State from making an election under this section.

PART 147—HEALTH INSURANCE REFORM REQUIREMENTS FOR THE GROUP AND INDIVIDUAL HEALTH INSURANCE MARKETS

■ 4. The authority citation for part 147 continues to read as follows:

Authority: Secs. 2701 through 2763, 2791, and 2792 of the Public Health Service Act (42 U.S.C. 300gg through 300gg–63, 300gg–91, and 300gg–92), as amended.

■ 5. Section 147.104 is amended by revising paragraph (b)(1)(i) and adding paragraph (h) to read as follows:

§ 147.104 Guaranteed availability of coverage.

* * * * *

(b) * * *

(1) * * *

(i) *Group market.* (A) Subject to paragraph (b)(1)(i)(B) of this section, a health insurance issuer in the group market must allow an employer to purchase health insurance coverage for a group health plan at any point during the year.

(B) In the case of a group health plan in the small group market that cannot comply with employer contribution or group participation rules for the offering of health insurance coverage, as allowed under applicable State law and in the case of a QHP offered in the SHOP, as permitted by § 156.1250(c) of this subchapter, a health insurance issuer may restrict the availability of coverage to an annual enrollment period that begins November 15 and extends through December 15 of each calendar year.

(C) With respect to coverage in the small group market, and in the large group market if such coverage is offered through a Small Business Health Options Program (SHOP) in a State, coverage must become effective consistent with the dates described in § 155.725(a)(2) of this subchapter, except as provided in paragraph (b)(1)(iii) of this section.

* * * * *

(h) *Construction.* Nothing in this section should be construed to require an issuer to offer coverage otherwise prohibited under applicable Federal law.

■ 6. Section 147.106 is amended by—

■ A. Revising paragraphs (c)(1) and (e).

■ B. Redesignating paragraphs (f), (g), and (h) as paragraphs (h), (i) and (j).

■ D. Adding new paragraphs (f) and (g).

The revisions and additions read as follows:

§ 147.106 Guaranteed renewability of coverage.

* * * * *

(c) * * *

(1) The issuer provides notice in writing, in a form and manner specified by the Secretary, to each plan sponsor or individual, as applicable, provided that particular product in that market (and to all participants and beneficiaries covered under such coverage) of the discontinuation at least 90 calendar days before the date the coverage will be discontinued.

* * * * *

(e) *Exception for uniform modification of coverage.* (1) Only at the time of coverage renewal may issuers modify the health insurance coverage for a product offered to a group health plan or an individual, as applicable, in the following:

(i) Large group market.

(ii) Small group market if, for coverage available in this market (other than only through one or more bona fide associations), the modification is consistent with State law and is

effective uniformly among group health plans with that product.

(iii) Individual market if the modification is consistent with State law and is effective uniformly for all individuals with that product.

(2) For purposes of this paragraph (e), modifications made solely pursuant to applicable Federal or State law are considered a uniform modification of coverage. Other types of modifications are considered a uniform modification of coverage if the product that has been modified meets all of the following criteria:

(i) The product is offered by the same health insurance issuer (within the meaning of section 2791(b)(2) of the PHS Act).

(ii) The product is offered as the same product type (e.g., preferred provider organization (PPO) or health maintenance organization (HMO)).

(iii) The product covers a majority of the same counties in its service area;

(iv) The product has the same cost-sharing structure, except for variation in cost sharing solely related to changes in cost and utilization of medical care, or to maintain the same level of coverage described in sections 1302(d) and (e) of the Affordable Care Act.

(v) The product provides the same covered benefits, except for changes in benefits that cumulatively impact the plan-adjusted index rate for the product (as described in § 156.80(d)(2)) by no more than 2 percent (not including changes required by applicable Federal or State law).

(3) A State may establish criteria that broaden, but not restrict, the definition of a uniform modification of coverage under paragraph (e)(2) of this section.

(f) *Notice of renewal of coverage*. If an issuer is renewing coverage as described in paragraph (a) of this section, or uniformly modifying coverage as described in paragraph (e) of this section, the issuer must provide to each plan sponsor or individual, as applicable, written notice of the renewal in a form and manner specified by the Secretary.

(g) *Construction*. Nothing in this section should be construed to require an issuer to renew or continue in force coverage for which continued eligibility would otherwise be prohibited under applicable Federal law.

* * * * *

PART 148—REQUIREMENTS FOR THE INDIVIDUAL HEALTH INSURANCE MARKET

■ 7. The authority citation for part 148 continues to read as follows:

Authority: Secs. 2701 through 2763, 2791, and 2792 of the Public Health Service Act (42 U.S.C. 300gg through 300gg–63, 300gg–91, and 300gg–92), as amended.

■ 8. Section 148.101 is revised to read as follows:

§ 148.101 Basis and purpose.

This part implements sections 2741 through 2763 and 2791 and 2792 of the PHS Act. Its purpose is to guarantee the renewability of all coverage in the individual market. It also provides certain protections for mothers and newborns with respect to coverage for hospital stays in connection with childbirth and protects all individuals and family members who have, or seek, individual health insurance coverage from discrimination based on genetic information.

■ 9. Section 148.102 is revised to read as follows:

§ 148.102 Scope, applicability, and effective dates.

(a) *Scope and applicability.* (1) Individual health insurance coverage includes all health insurance coverage (as defined in § 144.103 of this subchapter) that is neither health insurance coverage sold in connection with an employment-related group health plan, nor short-term, limited-duration coverage as defined in § 144.103 of this subchapter.

(2) The requirements that pertain to guaranteed renewability for all individuals, to protections for mothers and newborns with respect to hospital stays in connection with childbirth, and to protections against discrimination based on genetic information apply to all issuers of individual health insurance coverage in the State.

(b) *Applicability date*. Except as provided in § 148.124 (certificate of creditable coverage), § 148.170 (standards relating to benefits for mothers and newborns), and § 148.180 (prohibition of health discrimination based on genetic information), the requirements of this part apply to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market after June 30, 1997.

§ 148.103 [Removed]

■ 10. Section 148.103 is removed.

■ 11. Section 148.120 is revised to read as follows:

§ 148.120 Guaranteed availability of individual health insurance coverage to certain individuals with prior group coverage.

The rules for guaranteeing the availability of individual health insurance coverage to certain eligible individuals with prior group coverage have been superseded by the requirements of § 147.104 of this subchapter, which set forth Federal requirements for guaranteed availability of coverage in the group and individual markets.

■ 12. Section 148.122 is amended by—

■ A. Revising paragraphs (a), (d)(1), and (g).

■ B. Redesignating paragraph (h) as paragraph (i).

■ C. Adding new paragraph (h).

The revisions and addition read as follows:

§ 148.122 Guaranteed renewability of individual health insurance coverage.

(a) *Applicability*. This section applies to non-grandfathered and grandfathered health plans (within the meaning of § 147.140 of this subchapter) that are individual health insurance coverage. *See* also § 147.106 of this subchapter for requirements relating to guaranteed renewability of coverage with respect to non-grandfathered health plans.

* * * * *

(d) * * *

(1) Provides notice in writing, in a form and manner specified by the Secretary, to each individual provided coverage of that type of health insurance at least 90 calendar days before the date the coverage will be discontinued.

* * * * *

(g) *Exception for uniform modification of coverage*. (1) An issuer may, only at the time of coverage renewal, modify the health insurance coverage for a policy form offered in the individual market if the modification is consistent with State law and is effective uniformly for all individuals with that policy form.

(2) For purposes of this paragraph (g), modifications made solely pursuant to applicable Federal or State law are considered a uniform modification of coverage. Other types of modifications are considered a uniform modification of coverage if the product that has been modified meets all of the following criteria:

(i) The product is offered by the same health insurance issuer (within the meaning of section 2791(b)(2) of the PHS Act).

(ii) The product is offered as the same product type (e.g., preferred provider organization (PPO) or health maintenance organization (HMO)).

(iii) The product covers a majority of the same counties in its service area;

(iv) The product has the same cost-sharing structure, except for variation in cost sharing solely related to changes in cost and utilization of medical care, or to maintain the same level of coverage

described in sections 1302(d) and (e) of the Affordable Care Act.

(v) The product provides the same covered benefits, except for changes in benefits that cumulatively impact the rate for the product by no more than 2 percent (not including changes required by applicable Federal or State law).

(3) A State may establish criteria that broaden, but not restrict, the definition of a uniform modification of coverage under paragraph (g)(2) of this section.

(h) *Notice of renewal of coverage*. If an issuer is renewing coverage as described in paragraph (b) of this section, or uniformly modifying coverage as described in paragraph (g) of this section, the issuer must provide to each individual written notice of the renewal in a form and manner specified by the Secretary.

* * * * *

■ 13. Section 148.124 is revised to read as follows:

§ 148.124 Certification and disclosure of coverage.

(a) *General rule*. The rules for providing certificates of creditable coverage and demonstrating creditable coverage have been superseded by the prohibition on preexisting condition exclusions. *See* § 147.108 of this subchapter for rules prohibiting the imposition of a preexisting condition exclusion.

(b) *Applicability*. The provisions of this section apply beginning December 31, 2014.

■ 14. Section 148.126 is revised to read as follows:

§ 148.126 Determination of an eligible individual.

The rules for guaranteeing the availability of individual health insurance coverage to certain eligible individuals with prior group coverage have been superseded by the requirements of § 147.104 of this subchapter, which set forth Federal requirements for guaranteed availability of coverage in the group and individual markets.

■ 15. Section 148.128 is revised to read as follows:

§ 148.128 State flexibility in individual market reforms—alternative mechanisms.

The rules for a State to implement an acceptable alternative mechanism for purposes of guaranteeing the availability of individual health insurance coverage to certain eligible individuals with prior group coverage have been superseded by the requirements of § 147.104 of this subchapter, which set forth Federal requirements for guaranteed availability of coverage in the group and individual markets.

■ 16. Section 148.220 is amended by—

■ A. Revising the introductory text.

■ B. Revising paragraph (b)(3).

■ C. Redesignating paragraphs (b)(4) through (6) as paragraphs (b)(5) through (7), respectively.

■ D. Adding new paragraph (b)(4).

The revisions and additions read as follows:

§ 148.220 Excepted benefits.

The requirements of this part and part 147 do not apply to individual health insurance coverage in relation to its provision of the benefits described in paragraphs (a) and (b) of this section (or any combination of the benefits).

* * * * *

(b) * * *

(3) Coverage only for a specified disease or illness (for example, cancer policies) if the policies meet the requirements of § 146.145(b)(4)(ii)(B) and (C) of this subchapter regarding noncoordination of benefits.

(4) Hospital indemnity or other fixed indemnity insurance only if—

(i) The benefits are provided only to individuals who have other health coverage that is minimum essential coverage within the meaning of section 5000A(f) of the Internal Revenue Code.

(ii) There is no coordination between the provision of benefits and an exclusion of benefits under any other health coverage.

(iii) The benefits are paid in a fixed dollar amount per day of hospitalization or illness or per service (for example, $100/day or $50/visit) regardless of the amount of expenses incurred and without regard to the amount of benefits provided with respect to the event or service under any other health coverage.

(iv) A notice is displayed prominently in the plan materials in at least 14 point type that has the following language: ''THIS IS A SUPPLEMENT TO HEALTH INSURANCE AND IS NOT A SUBSTITUTE FOR MAJOR MEDICAL COVERAGE. LACK OF MAJOR MEDICAL COVERAGE (OR OTHER MINIMUM ESSENTIAL COVERAGE) MAY RESULT IN AN ADDITIONAL PAYMENT WITH YOUR TAXES.''

* * * * *

PART 153—STANDARDS RELATED TO REINSURANCE, RISK CORRIDORS, AND RISK ADJUSTMENT UNDER THE AFFORDABLE CARE ACT

■ 17. The authority citation for part 153 continues to read as follows:

Authority: Secs. 1311, 1321, 1341–1343, Pub. L. 111–148, 24 Stat. 119.

■ 18. Section 153.500 is amended by revising the definition of ''adjustment percentage,'' as added on March 11, 2014 (79 FR 13835), effective on May 12, 2014, to read as follows:

§ 153.500 Definitions.

* * * * *

Adjustment percentage means, with respect to a QHP:

(1) For benefit year 2014, for a QHP offered by a health insurance issuer with allowable costs of at least 80 percent of after-tax premium in a transitional State, the percentage specified by HHS for such QHPs in the transitional State; and otherwise zero percent.

(2) For benefit year 2015, for a QHP offered by a health insurance issuer in any State, two percent.

* * * * *

PART 155—EXCHANGE ESTABLISHMENT STANDARDS AND OTHER RELATED STANDARDS UNDER THE AFFORDABLE CARE ACT

■ 19. The authority citation for part 155 continues to read as follows:

Authority: Title I of the Affordable Care Act, sections 1301, 1302, 1303, 1304, 1311, 1312, 1313, 1321, 1322, 1331, 1332, 1334, 1402, 1411, 1412, 1413, Pub. L. 111–148, 124 Stat. 119 (42 U.S.C. 18021–18024, 18031–18033, 18041–18042, 18051, 18054, 18071, and 18081–18083).

■ 20. Section 155.120 is amended by revising paragraph (c) to read as follows:

§ 155.120 Non-interference with Federal law and non-discrimination standards.

* * * * *

(c) *Non-discrimination.* (1) In carrying out the requirements of this part, the State and the Exchange must:

(i) Comply with applicable non-discrimination statutes; and

(ii) Not discriminate based on race, color, national origin, disability, age, sex, gender identity or sexual orientation.

(2) *Exception.* Notwithstanding the provisions of paragraph (c)(1) of this section, an organization that receives Federal funds to provide services to a defined population under the terms of Federal legal authorities that participates in the certified application counselor program under § 155.225 may limit its provision of certified application counselor services to the same defined population. If the organization limits its provision of certified application counselor services pursuant to this exception, but is approached for certified application counselor services by an individual who is not included in the defined population that the organization serves, the organization must refer the

individual to other Exchange-approved resources that can provide assistance. If the organization does not limit its provision of certified application counselor services pursuant to this exception, the organization must comply with paragraph (c)(1) of this section.

■ 21. Section 155.206 is added to read as follows:

§ 155.206 Civil money penalties for violations of applicable Exchange standards by consumer assistance entities in Federally-facilitated Exchanges.

(a) *Enforcement actions.* If an individual or entity specified in paragraph (b) of this section engages in activity specified in paragraph (c) of this section, the Department of Health and Human Services (HHS) may impose the following sanctions:

(1) Civil money penalties (CMPs), subject to the provisions of this section.

(2) Corrective action plans. In the notice of assessment of CMPs specified in paragraph (l) of this section, HHS may provide an individual or entity specified in paragraph (b) of this section the opportunity to enter into a corrective action plan to correct the violation instead of paying the CMP, based on evaluation of the factors set forth in paragraph (h) of this section. In the event that the individual or entity does not follow such a corrective action plan, HHS could require payment of the CMP.

(b) *Consumer assistance entities.* CMPs may be assessed under this section against the following consumer assistance entities:

(1) Individual Navigators and Navigator entities in Federally-facilitated Exchanges, including grantees, sub-grantees, and all personnel carrying out Navigator duties on behalf of a grantee or sub-grantee;

(2) Non-Navigator assistance personnel authorized under § 155.205(d) and (e) and non-Navigator assistance personnel entities in Federally-facilitated Exchanges, including but not limited to individuals and entities under contract with HHS to facilitate consumer enrollment in QHPs in Federally-facilitated Exchanges; and

(3) Organizations that the Federally-facilitated Exchanges have designated as certified application counselor organizations and individual certified application counselors carrying out certified application counselor duties in the Federally-facilitated Exchanges.

(c) *Grounds for assessing CMPs.* HHS may assess CMPs against a consumer assistance entity if, based on the outcome of the investigative process outlined in paragraphs (d) through (i) of this section, HHS has reasonably determined that the consumer assistance entity has failed to comply with the Federally-facilitated Exchange requirements and standards applicable to the consumer assistance entity, unless a CMP has been assessed for the same conduct under 45 CFR 155.285.

(d) *Basis for initiating an investigation of a potential violation.* (1) *Information.* Any information received by HHS that indicates that a consumer assistance entity may have engaged or may be engaging in activity specified in paragraph (c) of this section may warrant an investigation. Information that might trigger an investigation includes, but is not limited to, the following:

(i) Complaints from the general public;

(ii) Reports from State regulatory agencies, and other Federal and State agencies; or

(iii) Any other information that indicates potential involvement in activity specified in paragraph (c) of this section.

(2) *Who may file a complaint.* Any entity or individual, or the legally authorized representative of an entity or individual, may file a complaint with HHS alleging that a consumer assistance entity has engaged or is engaging in an activity specified in paragraph (c) of this section.

(e) *Notice of investigation.* If HHS learns of a potential violation described in paragraph (c) of this section through the means described in paragraph (d) of this section, HHS must provide a written notice of its investigation to the consumer assistance entity. This notice must include the following:

(1) Description of the activity that is being investigated.

(2) Explanation that the consumer assistance entity has 30 days from the date of the notice to respond with additional information or documentation, including information or documentation to refute an alleged violation.

(3) State that a CMP might be assessed if the allegations are not, as determined by HHS, refuted within 30 days from the date of the notice.

(f) *Request for extension.* In circumstances in which a consumer assistance entity cannot prepare a response to HHS within the 30 days provided in the notice of investigation described in (e) of this section, the entity may make a written request for an extension from HHS detailing the reason for the extension request and showing good cause. If HHS grants the extension, the consumer assistance entity must respond to the notice within the time frame specified in HHS's letter granting the extension of time. Failure to respond within 30 days, or, if applicable, within an extended time frame, may result in HHS's imposition of a CMP depending upon the outcome of HHS's investigation of the alleged violation.

(g) *Responses to allegations of noncompliance.* In determining whether to impose a CMP, HHS may review and consider documents or information received or collected in accordance with paragraph (d)(1) of this section, as well as additional documents or information provided by the consumer assistance entity in response to receiving a notice of investigation in accordance with paragraph (e)(2) of this section. HHS may also conduct an independent investigation into the alleged violation, which may include site visits and interviews, if applicable, and may consider the results of this investigation in its determination.

(h) *Factors in determining noncompliance and CMPs, if any.* In determining whether there has been noncompliance by the consumer assistance entity, and whether CMPs are appropriate,

(1) HHS must take into account the following:

(i) The consumer assistance entity's previous or ongoing record of compliance, including but not limited to compliance or noncompliance with any corrective action plan under section (c) of this section.

(ii) The gravity of the violation, which may be determined in part by—

(A) The frequency of the violation, taking into consideration whether any violation is an isolated occurrence, represents a pattern, or is widespread; and

(B) Whether the violation caused, or could reasonably be expected to cause, financial or other adverse impacts on consumer(s), and the magnitude of those impacts;

(2) HHS may take into account the following:

(i) The degree of culpability of the consumer assistance entity, including but not limited to—

(A) Whether the violation was beyond the direct control of the consumer assistance entity; and

(B) The extent to which the consumer assistance entity received compensation—legal or otherwise—for the services associated with the violation;

(ii) Aggravating or mitigating circumstances; or

(iii) Other such factors as justice may require.

(i) *Maximum per-day penalty.* The maximum amount of penalty imposed

for each violation is $100 for each day for each consumer assistance entity for each individual directly affected by the consumer assistance entity's noncompliance; and where the number of individuals cannot be determined, the Exchange may reasonably estimate the number of individuals directly affected by the violation.

(j) *Settlement authority.* Nothing in § 155.206 limits the authority of HHS to settle any issue or case described in the notice furnished in accordance with paragraph (e) or to compromise on any penalty provided for in this section.

(k) *Limitations on penalties.* (1) *Circumstances under which a civil money penalty is not imposed.* HHS will not impose any civil money penalty on:

(i) Any violation for the period of time during which none of the consumer assistance entities knew, or exercising reasonable diligence would have known, of the violation; or

(ii) The period of time after any of the consumer assistance entities knew, or exercising reasonable diligence would have known, of the failure, if the violation was due to reasonable cause and not due to willful neglect and the violation was corrected within 30 days of the first day that any of the consumer assistance entities against whom the penalty would be imposed knew, or exercising reasonable diligence would have known, that the violation existed.

(2) *Burden of establishing knowledge.* The burden is on the consumer assistance entity or entities to establish to HHS's satisfaction that the consumer assistance entity did not know, or exercising reasonable diligence would have known, that the violation existed, as well as the period of time during which that limitation applies; or that the violation was due to reasonable cause and not due to willful neglect and was corrected pursuant to the elements in subparagraph (k)(1)(ii).

(l) *Notice of assessment of CMP.* If HHS proposes to assess a CMP in accordance with this section, HHS will send a written notice of this decision to—

(1) The consumer assistance entity against whom the sanction is being imposed, which notice must include the following:

(i) A description of the basis for the determination;

(ii) The basis for the CMP;

(iii) The amount of the CMP, if applicable;

(iv) The date the CMP, if applicable, is due;

(v) Whether HHS would permit the consumer assistance entity to enter into a corrective action plan in place of paying the CMP, and the terms of any such corrective action plan;

(vi) An explanation of the consumer assistance entity's right to a hearing under paragraph (m) of this section; and

(vii) Information about the process for filing a request for a hearing.

(m) *Appeal of proposed sanction.* Any consumer assistance entity against which HHS has assessed a sanction may appeal that penalty in accordance with the procedures set forth at 45 CFR Part 150, Subpart D.

(n) *Failure to request a hearing.* (1) If the consumer assistance entity does not request a hearing within 30 days of the issuance of the notice of assessment of CMP described in paragraph (l) of this section, HHS may require payment of the proposed CMP.

(2) HHS will notify the consumer assistance entity in writing of any CMP that has been assessed and of the means by which the consumer assistance entity may pay the CMP.

(3) The consumer assistance entity has no right to appeal a CMP with respect to which it has not requested a hearing in accordance with paragraph (m) of this section unless the consumer assistance entity can show good cause in accordance with § 150.405(b) of this subchapter for failing to timely exercise its right to a hearing.

■ 22. Section 155.210 is amended—

■ A. By revising paragraph (c)(1)(iii).

■ B. In paragraph (d)(3) by removing ''or,'' after the semicolon.

■ C. In paragraph (d)(4) by removing the period at the end of the paragraph and adding a semicolon in its place.

■ D. By adding paragraphs (d)(5) through (9) and (e)(6) and (7).

The revision and additions read as follows:

§ 155.210 Navigator program standards.

(c) * * *

(1) * * *

(iii) Meet any licensing, certification or other standards prescribed by the State or Exchange, if applicable, so long as such standards do not prevent the application of the provisions of title I of the Affordable Care Act. Standards that would prevent the application of the provisions of title I of the Affordable Care Act include but are not limited to the following:

(A) Except as otherwise provided under § 155.705(d), requirements that Navigators refer consumers to other entities not required to provide fair, accurate, and impartial information.

(B) Except as otherwise provided under § 155.705(d), requirements that would prevent Navigators from providing services to all persons to whom they are required to provide assistance.

(C) Requirements that would prevent Navigators from providing advice regarding substantive benefits or comparative benefits of different health plans.

(D) Requiring that a Navigator hold an agent or broker license or carry errors or omissions insurance.

(E) In a Federally-facilitated Exchange, imposing standards that would prohibit individuals or entities from acting as Navigators that would be eligible to participate as Navigators under standards applicable to the Federally-facilitated Exchange.

(F) In a Federally-facilitated Exchange, imposing standards that would, as applied or as implemented in a State, prevent the application of requirements applicable to the Federally-facilitated Exchange.

* * * * *

(d) * * *

(5) Charge any applicant or enrollee, or request or receive any form of remuneration from or on behalf of an individual applicant or enrollee, for application or other assistance related to Navigator duties; or

(6) Provide compensation to individual Navigators on a per-application, per-individual-assisted, or per-enrollment basis.

(7) Provide gifts, including gift cards or cash, unless they are of nominal value, or provide promotional items that market or promote the products or services of a third party, to any applicant or potential enrollee in connection with or as an inducement for application assistance or enrollment.

(8) Solicit any consumer for application or enrollment assistance by going door-to-door or through other unsolicited means of direct contact, including calling a consumer to provide application or enrollment assistance without the consumer initiating the contact.

(9) Initiate any telephone call to a consumer using an automatic telephone dialing system or an artificial or prerecorded voice.

(e) * * *

(6) Ensure that applicants—

(i) Are informed of the functions and responsibilities of Navigators;

(ii) Provide authorization in a form and manner as determined by the Secretary prior to a Navigator's obtaining access to an applicant's personally identifiable information, and that the Navigator maintains a record of the authorization provided. The Exchange must establish a reasonable retention period for maintaining these records. In Federally-facilitated Exchanges, this period is three years,

unless a different retention period has already been provided under 45 CFR 92.42 and 45 CFR 74.53 or other applicable Federal law; and

(iii) May revoke at any time the authorization provided the Navigator pursuant to paragraph (e)(6)(ii) of this section.

(7) Maintain a physical presence in the Exchange service area, so that face-to-face assistance can be provided to applicants and enrollees.

* * * * *

■ 23. Section 155.215 is amended by adding paragraphs (f) and (g) to read as follows:

§ 155.215 Standards applicable to Navigators and Non-Navigator Assistance Personnel carrying out consumer assistance functions under §§ 155.205(d) and (e) and 155.210 in a Federally-facilitated Exchange and to Non-Navigator Assistance Personnel funded through an Exchange Establishment Grant.

* * * * *

(f) *State or Exchange standards.* All non-Navigator entities or individuals carrying out consumer assistance functions under § 155.205(d) and (e) must comply with the eligibility standard set forth under § 155.210(c)(1)(iii), except for § 155.210(c)(1)(iii)(D).

(g) *Consumer authorization.* All non-Navigator entities or individuals carrying out consumer assistance functions under § 155.205(d) and (e) must establish procedures to ensure that applicants—

(1) Are informed of the functions and responsibilities of non-Navigator assistance personnel;

(2) Provide authorization in a form and manner as determined by the Secretary prior to a non-Navigator assistance personnel's obtaining access to an applicant's personally identifiable information, and that the non-Navigator assistance personnel maintains a record of the authorization provided. The Exchange must establish a reasonable retention period for maintaining these records. In Federally-facilitated Exchanges, this period is three years, unless an different retention period has already been provided in applicable Federal law; and

(3) May revoke at any time the authorization provided the non-Navigator assistance personnel pursuant to paragraph (g)(2) of this section.

■ 24. Section 155.225 is amended—

■ A. In paragraph (b)(1)(i) by removing ''and'' after the semicolon.

■ B. In paragraph (b)(1)(ii) by removing the period at the end of the paragraph and adding ''; and'' in its place.

■ C. By adding paragraph (b)(1)(iii).

■ D. In paragraph (d)(5) by removing ''and'' after the semicolon.

■ E. In paragraph (d)(6) by removing the period at the end of the paragraph and adding a semicolon in its place.

■ F. By adding paragraphs (d)(7) and (8).

■ G. By revising paragraphs (f)(1) and (2) and (g).

The revisions and additions read as follows:

§ 155.225 Certified application counselors.

* * * * *

(b) * * *

(1) * * *

(iii) Maintain a physical presence in the Exchange service area, so that face-to-face assistance can be provided to applicants and enrollees.

* * * * *

(d) * * *

(7) Is recertified on at least an annual basis after successfully completing recertification training as required by the Exchange; and

(8) Meets any licensing, certification, or other standards prescribed by the State or Exchange, if applicable, so long as such standards do not prevent the application of the provisions of title I of the Affordable Care Act. Standards that would prevent the application of the provisions of title I of the Affordable Care Act include but are not limited to the following:

(i) Requirements that certified application counselors refer consumers to other entities not required to act in the best interest of applicants assisted.

(ii) Requirements that would prevent certified application counselors from providing services to all persons to whom they are required to provide assistance.

(iii) Requirements that would prevent certified application counselors from providing advice regarding substantive benefits or comparative benefits of different health plans.

(iv) In a Federally-facilitated Exchange, imposing standards that would prohibit individuals or entities from acting as certified application counselors that would be eligible to participate as certified application counselors under standards applicable to the Federally-facilitated Exchange.

(v) In a Federally-facilitated Exchange, imposing standards that would, as applied or as implemented in a State, prevent the application of requirements applicable to the Federally-facilitated Exchange.

* * * * *

(f) * * *

(1) Are informed of the functions and responsibilities of certified application counselors;

(2) Provide authorization prior to a certified application counselor obtaining access to an applicant's personally identifiable information and that the organization or certified application counselor maintains a record of the authorization. The Exchange must establish a reasonable retention period for maintaining these records. In Federally-facilitated Exchanges, this period is three years, unless a different retention period has already been provided under other applicable Federal law; and

* * * * *

(g) *Fees, consideration, solicitation, and marketing.* Organizations designated by the Exchange under paragraph (b) of this section and certified application counselors must not—

(1) Impose any charge on applicants or enrollees for application or other assistance related to the Exchange;

(2) Receive any consideration directly or indirectly from any health insurance issuer or issuer of stop-loss insurance in connection with the enrollment of any individuals in a QHP or a non-QHP;

(3) Provide compensation to individual certified application counselors on a per-application, per-individual- assisted, or per-enrollment basis;

(4) Provide gifts, including gift cards or cash, unless they are of nominal value, or provide promotional items that market or promote the products or services of a third party, to any applicant or potential enrollee in connection with or as an inducement for application assistance or enrollment;

(5) Solicit any consumer for application or enrollment assistance by going door-to-door or through other unsolicited means of direct contact, including calling a consumer to provide application or enrollment assistance without the consumer initiating the contact; or

(6) Initiate any telephone call to a consumer using an automatic telephone dialing system or an artificial or prerecorded voice.

■ 25. Section 155.240 is amended by adding paragraph (e) to read as follows:

§ 155.240 Payment of premium.

* * * * *

(e) *Premium calculation.* The Exchange may establish one or more standard processes for premium calculation.

(1) For a Federally-facilitated Exchange, the premium for coverage lasting less than one month must equal the product of—

(i) The premium for one month of coverage divided by the number of days in the month; and

(ii) The number of days for which coverage is being provided in the month described in paragraph (e)(1)(i) of this section.

(2) [Reserved]

■ 26. Section 156.260 is amended by revising paragraph (g) to read as follows:

§ 155.260 Privacy and security of personally identifiable information.

* * * * *

(g) *Improper use and disclosure of information.* Any person who knowingly and willfully uses or discloses information in violation of section 1411(g) of the Affordable Care Act will be subject to a CMP of not more than the maximum amount specified in section 1411(h)(2) of the Affordable Care Act per person or entity, per use or disclosure, consistent with the bases and process for imposing civil penalties specified at § 155.285 of this subpart, in addition to other penalties that may be prescribed by law.

■ 27. Section 155.285 is added to subpart C to read as follows:

§ 155.285 Bases and process for imposing civil penalties for provision of false or fraudulent information to an Exchange or improper use or disclosure of information.

(a) *Grounds for imposing civil money penalties.* (1) HHS may impose civil money penalties on any person, as defined in paragraph (a)(2) of this section, if, based on credible evidence, HHS reasonably determines that a person has engaged in one or more of the following actions:

(i) Failure to provide correct information under section 1411(b) of the Affordable Care Act where such failure is attributable to negligence or disregard of any rules or regulations of the Secretary with negligence and disregard defined as they are in section 6662 of the Internal Revenue Code of 1986:

(A) ''Negligence'' includes any failure to make a reasonable attempt to provide accurate, complete, and comprehensive information; and

(B) ''Disregard'' includes any careless, reckless, or intentional disregard for any rules or regulations of the Secretary.

(ii) Knowing and willful provision of false or fraudulent information required under section 1411(b) of the Affordable Care Act, where knowing and willful means the intentional provision of information that the person knows to be false; or

(iii) Knowing and willful use or disclosure of information in violation of section 1411(g) of the Affordable Care Act, where knowing and willful means the intentional use or disclosure of information in violation of section 1411(g). Such violations would include, but not be limited to, the following:

(A) Any use or disclosure performed which violates relevant privacy and security standards established by the Exchange pursuant to § 155.260;

(B) Any other use or disclosure which has not been determined by the Secretary to be in compliance with section 1411(g)(2)(A) of the Affordable Care Act pursuant to § 155.260(a); and

(C) Any other use or disclosure which is not necessary to carry out a function described in a contract with a non-Exchange entity executed pursuant to § 155.260(b)(2).

(2) For purposes of this section, the term ''person'' is defined to include, but is not limited to, all individuals; corporations; Exchanges; Medicaid and CHIP agencies; other entities gaining access to personally identifiable information submitted to an Exchange to carry out additional functions which the Secretary has determined ensure the efficient operation of the Exchange pursuant to § 155.260(a)(1); and non-Exchange entities as defined in § 155.260(b) which includes agents, brokers, Web-brokers, QHP issuers, Navigators, non-Navigator assistance personnel; certified application counselors, in-person assistors, and other third party contractors.

(b) *Factors in determining the amount of civil money penalties imposed.* In determining the amount of civil money penalties, HHS may take into account factors which include, but are not limited to, the following:

(1) The nature and circumstances of the conduct including:

(i) The number of violations;

(ii) The severity of the violations;

(iii) The person's history with the Exchange including any prior violations that would indicate whether the violation is an isolated occurrence or represents a pattern of behavior;

(iv) The length of time of the violation;

(v) The number of individuals affected or potentially affected;

(vi) The extent to which the person received compensation or other consideration associated with the violation; and

(vii) Any documentation provided in any complaint or other information, as well as any additional information provided by the individual to refute performing the violation.

(2) The nature of the harm resulting from, or reasonably expected to result from, the violation including:

(i) Whether the violation resulted in financial harm;

(ii) Whether there was harm to an individual's reputation;

(iii) Whether the violation hindered or could have hindered an individual's ability to obtain health insurance coverage;

(v) The actual or potential impact of the provision of false or fraudulent information or of the improper use or disclosure of the information; and

(vi) Whether any person received a more favorable eligibility determination for enrollment in a QHP or insurance affordability program, such as greater advance payment of the premium tax credits or cost-sharing reductions than he or she would be eligible for if the correct information had been provided.

(3) No penalty will be imposed under paragraph (a)(1)(i) of this section if HHS determines that there was a reasonable cause for the failure to provide correct information required under section 1411(b) of the Affordable Care Act and that the person acted in good faith.

(c) *Maximum penalty.* The amount of a civil money penalty will be determined by HHS in accordance with paragraph (b) of this section.

(1) The following provisions provide maximum penalties for a single ''plan year,'' where ''plan year'' has the same meaning as at § 155.20 of this part:

(i) Any person who fails to provide correct information as specified in paragraph (a)(1)(i) of this section may be subject to a maximum civil money penalty as specified in section 1411(h)(1)(A)(i) of the Affordable Care Act for each application, as defined at paragraph (c)(1)(iii) of this section, pursuant to which a person fails to provide correct information.

(ii) Any person who knowingly and willfully provides false information as specified in paragraph (a)(1)(ii) of this section may be subject to a maximum civil money penalty as specified in section 1411(h)(1)(B) of the Affordable Care Act for each application, as defined at paragraph (c)(1)(iii) of this section, on which a person knowingly and willfully provides false information.

(iii) For the purposes of this subsection, ''application'' is defined as a submission of information, whether through an online portal, over the telephone through a call center, or through a paper submission process, in which the information is provided in relation to an eligibility determination; an eligibility redetermination based on a change in an individual's circumstances; or an annual eligibility redetermination for any of the following:

(A) Enrollment in a qualified health plan;

(B) Premium tax credits or cost sharing reductions; or

(C) An exemption from the individual shared responsibility payment.

(2) Any person who knowingly or willfully uses or discloses information as specified in paragraph (a)(1)(iii) of this section may be subject to the following civil money penalty:

(i) A civil money penalty for each use or disclosure described in paragraph (a)(1)(iii) of this section of not more than the maximum amount specified in section 1411(h)(2) of the Affordable Care Act per use or disclosure.

(ii) For purposes of this subsection, a use or disclosure includes one separate use or disclosure of a single individual's personally identifiable information where the person against whom a civil money penalty may be imposed has made the use or disclosure.

(3) These penalties may be imposed in addition to any other penalties that may be prescribed by law.

(d) *Notice of intent to issue civil money penalty.* If HHS intends to impose a civil money penalty in accordance with this part, HHS will send a written notice of such intent to the person against whom it intends to impose a civil money penalty.

(1) This written notice will be either hand delivered, sent by certified mail, return receipt requested, or sent by overnight delivery service with signature upon delivery required. The written notice must include the following elements:

(i) A description of the findings of fact regarding the violations with respect to which the civil money penalty is proposed;

(ii) The basis and reasons why the findings of fact subject the person to a penalty;

(iii) Any circumstances described in paragraph (b) of this section that were considered in determining the amount of the proposed penalty;

(iv) The amount of the proposed penalty;

(v) An explanation of the person's right to a hearing under any applicable administrative hearing process;

(vi) A statement that failure to request a hearing within 60 calendar days after the date of issuance printed on the notice permits the assessment of the proposed penalty; and

(vii) Information explaining how to file a request for a hearing and the address to which the hearing request must be sent.

(2) The person may request a hearing before an ALJ on the proposed penalty by filing a request in accordance with the procedure to file a request specified in the notice of intent to issue a civil money penalty.

(e) *Failure to request a hearing.* If the person does not request a hearing within 60 calendar days of the date of issuance printed on the notice described in paragraph (d) of this section, HHS may impose the proposed civil money penalty.

(1) HHS will notify the person in writing of any penalty that has been imposed, the means by which the person may satisfy the penalty, and the date on which the penalty is due.

(2) A person has no right to appeal a penalty with respect to which the person has not timely requested a hearing in accordance with paragraph (d) of this section.

(f) *Appeal of proposed penalty.* Subject to paragraph (e)(2) of this section, any person against whom HHS has imposed a civil money penalty may appeal that penalty in accordance with the rules and procedures outlined at 45 CFR part 150, subpart D, excluding §§ 150.461, 150.463, and 150.465.

(g) *Enforcement authority.* (1) *CMS.* CMS may impose civil money penalties up to the maximum amounts specified in paragraph (d) of this section for any of the violations described in paragraph (a) of this section.

(2) *OIG.* In accordance with the rules and procedures of 42 CFR part 1003, and in place of imposition of penalties by CMS, the OIG may impose civil money penalties for violations described in paragraphs (a)(1)(ii) and (iii) of this section.

(h) *Settlement authority.* Nothing in this section limits the authority of CMS to settle any issue or case described in the notice furnished in accordance with § 155.285(d) or to compromise on any penalty provided for in this section.

(i) *Limitations.* No action under this section will be entertained unless commenced, in accordance with § 155.285(d), within 6 years from the date on which the violation occurred.

■ 28. Section 155.320 is amended by revising the section heading and removing paragraph (d)(4).

The revision reads as follows:

§ 155.320 Verification process related to eligibility for insurance affordability programs.

* * * * *

■ 29. Section 155.330 is amended by revising paragraph (d)(2)(ii) to read as follows:

§ 155.330 Eligibility redetermination during a benefit year.

* * * * *

(d) * * *

(2) * * *

(ii) Comply with the standards specified in paragraph (e)(2) of this section.

* * * * *

■ 30. Section 155.400 is amended by adding paragraphs (e) and (f) to read as follows:

§ 155.400 Enrollment of qualified individuals into QHPs.

* * * * *

(e) *Premium payment.* Exchanges may, and the Federally-facilitated Exchange will, require payment of the first month's premium to effectuate an enrollment.

(f) *Processing enrollment transactions.* The Exchange may provide requirements to QHP issuers regarding the instructions for processing electronic enrollment-related transactions.

■ 31. Section 155.420 is amended by revising paragraphs (b)(2)(i) through (iii), (c), (d)(1), (d)(6)(iii), and (e) introductory text to read as follows:

§ 155.420 Special enrollment periods.

* * * * *

(b) * * *

(2) * * *

(i) In the case of birth, adoption, placement for adoption, or placement in foster care, the Exchange must ensure that coverage is effective for a qualified individual or enrollee on the date of birth, adoption, placement for adoption, or placement in foster care, but may permit the qualified individual or enrollee to elect a later coverage effective date. If the Exchange permits the qualified individual or enrollee to elect a later coverage effective date, the Exchange must ensure coverage is effective on the date elected by the qualified individual or enrollee.

(ii) In the case of marriage, or in the case where a qualified individual loses minimum essential coverage or other coverage, as described in paragraph (d)(1) of this section, the Exchange must ensure that coverage is effective for a qualified individual or enrollee on the first day of the following month.

(iii) In the case of a qualified individual or enrollee eligible for a special enrollment period as described in paragraphs (d)(4), (d)(5), (d)(9), or (d)(10) of this section, the Exchange must ensure that coverage is effective on an appropriate date based on the circumstances of the special enrollment period, in accordance with guidelines issued by HHS.

* * * * *

(c) *Availability and length of special enrollment periods.* (1) Unless specifically stated otherwise herein, a qualified individual or enrollee has 60

days from the date of a triggering event to select a QHP;

(2) A qualified individual or enrollee whose coverage specified in paragraph (d)(1) or whose eligibility for qualifying coverage in an eligible-employer sponsored plan as specified in paragraph (d)(6)(iii) of this section will end within the next 60 days has 120 days from the date that is 60 days prior to the end of such coverage or eligibility to select a QHP, including prior to the end of his or her existing coverage or eligibility for qualifying coverage in an eligible-employer sponsored plan as specified in paragraph (d)(6)(iii) of this section, although he or she is not eligible for advance payments of the premium tax credit until the end of his or her existing coverage or eligibility for qualifying coverage in an eligible-employer sponsored plan as specified in paragraph (d)(6)(iii) of this section;

(3) In the case of a qualified individual or enrollee eligible for a special enrollment period as described in paragraphs (d)(4), (d)(5), (d)(9), or (d)(10) of this section, the Exchange may define the length of this special enrollment period as appropriate based on the circumstances of the special enrollment period, in accordance with guidelines issued by HHS.

(d) * * *

(1) The qualified individual or his or her dependent loses minimum essential coverage, is enrolled in any non-calendar year individual health insurance policy as described in § 147.104(b)(2) of this subchapter, even if the qualified individual or his her or dependent has the option to renew the expiring non-calendar year individual health insurance policy, or loses pregnancy-related coverage described under section 1902(a)(10)(A)(i)(IV) and (a)(10)(A)(ii)(IX) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(i)(IV), (a)(10)(A)(ii)(IX)).

* * * * *

(6) * * *

(iii) A qualified individual or his or her dependent who is enrolled in an eligible employer-sponsored plan is determined newly eligible for advance payments of the premium tax credit based in part on a finding that such individual is ineligible for qualifying coverage in an eligible-employer sponsored plan in accordance with 26 CFR 1.36B–2(c)(3), including as a result of his or her employer discontinuing or changing available coverage within the next 60 days, provided that such individual is allowed to terminate existing coverage.

* * * * *

(e) *Loss of coverage.* Loss of minimum essential coverage or other coverage described in paragraph (d)(1) of this section includes those circumstances described in 26 CFR 54.9801–6(a)(3)(i) through (iii). Loss of coverage does not include voluntary termination or loss due to—

* * * * *

■ 32. Section 155.430 is amended by revising paragraph (d)(6) and adding paragraph (e) to read as follows:

§ 155.430 Termination of coverage.

* * * * *

(d) * * *

(6) In the case of a termination in accordance with paragraph (b)(2)(v) of this section, the last day of coverage in an enrollee's prior QHP is the day before the effective date of coverage in his or her new QHP, including any retroactive enrollments effectuated under § 155.420(b)(2)(iii). In cases of retroactive terminations dates, the Exchange will ensure that appropriate actions are taken to make necessary adjustments to advance payments of the premium tax credit, cost-sharing reductions, premiums, and claims.

* * * * *

(e) *Termination, cancellation, and reinstatement.* The Exchange may establish operational instructions as to the form, manner, and method for addressing each of the following:

(1) *Termination.* A termination is an action taken after a coverage effective date that ends an enrollee's coverage through the Exchange for a date after the original coverage effective date, resulting in a period during which the individual was covered by the issuer.

(2) *Cancellation.* A cancellation is specific type of termination action that ends a qualified individuals' enrollment on the date coverage became effective resulting in coverage never having been effective with the QHP.

(3) *Reinstatement.* A reinstatement is a correction of an erroneous termination or cancellation action and results in restoration of an enrollment with no break in coverage.

§ 155.505 [Amended].

■ 33. Section 155.505 is amended in paragraph (b)(4) by removing ''; and'' at the end of the paragraph and adding a period in its place.

■ 34. Section 155.530 is amended by revising paragraph (a)(1) to read as follows:

§ 155.530 Dismissals.

(a) * * *

(1) Withdraws the appeal request in writing or by telephone, if the appeals entity is capable of accepting telephonic withdrawals.

(i) Accepting telephonic withdrawals means the appeals entity—

(A) Records in full the appellant's statement and telephonic signature made under penalty of perjury; and

(B) Provides a written confirmation to the appellant documenting the telephonic interaction.

(ii) [Reserved]

* * * * *

■ 35. Section 155.555 is amended by—

■ A. Redesignating paragraphs (d) introductory text, (d)(1), (d)(2) introductory text, (d)(2)(i), (ii), (iii), (d)(3), and (d)(4) as paragraphs (d)(1) introductory text, (d)(1)(i), (d)(1)(ii) introductory text, (d)(1)(ii)(A), (B), (C), (d)(1)(iii), and (d)(2).

■ B. Revising new paragraph (d)(2) introductory text.

The revision reads as follows:

§ 155.555 Employer appeals process.

* * * * *

(d) * * *

(2) Upon receipt of an invalid appeal request, the appeals entity must promptly and without undue delay send written notice to the employer that the appeal request is not valid because it fails to meet the requirements of this section. The written notice must inform the employer—

* * * * *

■ 36. Section 155.625 is revised to read as follows:

§ 155.625 Options for conducting eligibility determinations for exemptions.

(a) *Options for conducting eligibility determinations.* The Exchange may satisfy the requirements of this subpart—

(1) Directly or through contracting arrangements in accordance with § 155.110(a); or

(2) For an application submitted before November 15, 2014, through the approach described in paragraph (b) of this section.

(b) *Use of HHS service.* Notwithstanding the requirements of this subpart, for an application submitted before November 15, 2014, the Exchange may adopt an exemption eligibility determination made by HHS, provided that—

(1) The Exchange adheres to the eligibility determination made by HHS;

(2) The Exchange furnishes to HHS any information available through the Exchange that is necessary for an applicant to utilize the process administered by HHS; and

(3) The Exchange call center and Internet Web site specified in § 155.205(a) and (b), respectively,

provide information to consumers regarding the exemption eligibility process.

■ 37. Section 155.705, as amended March 11, 2014 (79 FR 13838), and effective May 12, 2014, is amended by—

■ A. Revising paragraphs (b)(2) and (b)(3)(ii) introductory text and (b)(3)(iv) introductory text.

■ B. Adding paragraph (b)(3)(vi).

The revisions and addition read as follows:

§ 155.705 Functions of a SHOP.

* * * * *

(b) * * *

(2) *Employer choice requirements.* With regard to QHPs offered through the SHOP for plan years beginning on or after January 1, 2015, the SHOP must allow a qualified employer to select a level of coverage as described in section 1302(d)(1) of the Affordable Care Act, in which all QHPs within that level are made available to the qualified employees of the employer, unless the SHOP makes an election pursuant to paragraph (b)(3)(vi) of this section.

(3) * * *

(ii) Unless the SHOP makes an election pursuant to paragraph (b)(3)(vi) of this section, for plan years beginning on or after January 1, 2015, a SHOP:

* * * * *

(iv) Unless the Secretary makes an election pursuant to paragraph (b)(3)(vi) of this section, for plan years beginning on or after January 1, 2015, a Federally-facilitated SHOP will provide a qualified employer a choice of two methods to make QHPs available to qualified employees:

* * * * *

(vi) For plan years beginning in 2015, the SHOP may, based on the recommendation of a State regulatory agency, elect to provide employers only with the options set forth at paragraph (b)(3)(ii)(B) or in the case of a Federally-facilitated SHOP, only with the option set forth at paragraph (b)(3)(iv)(B) of this section, only if:

(A) The implementation of paragraphs (b)(3)(ii)(A) or (b)(3)(iv)(A) of this section would result in significant adverse selection in the State's small group market resulting in market disruptions that could not be remediated by sections 1312(c), 1342, and 1343 of the Affordable Care Act (relating to single risk pool, risk corridors, and risk adjustment); or

(B) There are insufficient issuers of qualified health plans or qualified stand-alone dental plans in the SHOP to allow for meaningful choice among qualified health plans or qualified stand-alone dental plans for all levels of coverage as described in section 1302(d)(1) of the Affordable Care Act.

* * * * *

■ 38. Section 155.725 is amended by revising paragraphs (c) and (e) to read as follows:

§ 155.725 Enrollment periods under SHOP.

* * * * *

(c) *Annual employer election period.* (1) Notwithstanding any other paragraph in this section, for coverage beginning in 2015, a qualified employer's annual election period may begin no sooner than November 15, 2014.

(2) The SHOP must provide qualified employers with a standard election period prior to the completion of the employer's plan year and before the annual employee open enrollment period, in which the qualified employer may change its participation in the SHOP for the next plan year, including—

(i) The method by which the qualified employer makes QHPs available to qualified employees pursuant to § 155.705(b)(2) and (3);

(ii) The employer contribution towards the premium cost of coverage;

(iii) The level of coverage offered to qualified employees as described in § 155.705(b)(2) and (3); and

(iv) The QHP or QHPs offered to qualified employees in accordance with § 155.705.

* * * * *

(e) *Annual employee open enrollment period.* The SHOP must establish a standardized annual open enrollment period for qualified employees prior to the completion of the applicable qualified employer's plan year and after that employer's annual election period.

* * * * *

■ 39. Section 155.740 is amended by—

■ A. Redesignating paragraphs (g) introductory text, (g)(1) introductory text, (g)(1)(i), (g)(1)(ii), (g)(2), and (g)(3) as paragraphs (g)(1)(i) introductory text, (g)(1)(i)(A), (g)(1)(i)(B), (g)(1)(ii), and (g)(2).

■ B. Revising paragraph (i)(1)(i).

The revision read as follows:

§ 155.740 SHOP employer and employee eligibility appeals requirements.

* * * * *

(i) * * *

(1) * * *

(i) Withdraws the request in accordance with the standards set forth in § 155.530(a)(1); or

* * * * *

■ 40. Subpart O is added to read as follows:

Subpart O—Quality Reporting Standards for Exchanges

Sec.
155.1400 Quality rating system.
155.1405 Enrollee satisfaction survey system.

Subpart O—Quality Reporting Standards for Exchanges

§ 155.1400 Quality rating system.

The Exchange must prominently display the quality rating information assigned to each QHP on its Web site, in accordance with § 155.205(b)(1)(v), as calculated by HHS and in a form and manner specified by HHS.

§ 155.1405 Enrollee satisfaction survey system.

The Exchange must prominently display results from the Enrollee Satisfaction Survey for each QHP on its Web site, in accordance with § 155.205(b)(1)(iv), as calculated by HHS and in a form and manner specified by HHS.

PART 156—HEALTH INSURANCE ISSUER STANDARDS UNDER THE AFFORDABLE CARE ACT, INCLUDING STANDARDS RELATED TO EXCHANGES

■ 41. The authority citation for part 156 continues to read as follows:

Authority: Title I of the Affordable Care Act, sections 1301–1304, 1311–1313, 1321–1322, 1324, 1334, 1342–1343, 1401–1402, Pub. L. 111–148, 124 Stat. 119 42 U.S.C. 18021–18024, 18031–18032, 18041–18042, 18044, 18054, 18061, 18063, 18071, 18082, 26 U.S.C. 36B, and 31 U.S.C. 9701).

■ 42. Section 156.130 is amended by revising paragraph (d) to read as follows:

§ 156.130 Cost-sharing requirements.

* * * * *

(d) *Increase annual dollar limits in multiples of 50.* For a plan year beginning in a calendar year after 2014, any increase in the annual dollar limits described in paragraphs (a) and (b) of this section that does not result in a multiple of 50 dollars will be rounded down, to the next lowest multiple of 50 dollars.

* * * * *

■ 43. Section 156.200 is amended by revising paragraph (b)(5) and adding paragraph (h) to read as follows:

§ 156.200 QHP issuer participation standards.

* * * * *

(b) * * *

(5) Implement and report on a quality improvement strategy or strategies described in section 1311(c)(1)(E) of the Affordable Care Act consistent with the

standards of section 1311(g) of the Affordable Care Act, disclose and report information on health care quality and outcomes described in sections 1311(c)(1)(H), (c)(1)(I), and (c)(3) of the Affordable Care Act, and implement appropriate enrollee satisfaction surveys consistent with section 1311(c)(4) of the Affordable Care Act;

* * * * *

(h) *Operational requirements.* As a condition of certification of a QHP, an issuer must attest that it will comply with all QHP operational requirements described in Subparts D, E, H, K, L and M of this part.

■ 44. Section 156.265 is amended by revising paragraph (d) to read as follows:

§ 156.265 Enrollment process for qualified individuals.

* * * * *

(d) *Premium payment.* A QHP issuer—

(1) Must follow the premium payment process established by the Exchange in accordance with § 155.240.

(2) Must, for QHPs offered through a Federally-facilitated Exchange, establish the date by which a qualified individual that has selected a QHP within the enrollment period dates in § 155.410(b) of this subchapter must make a premium payment in order to effectuate coverage by the applicable coverage date, provided that:

(i) The payment date is no later than the day before the coverage effective date.

(ii) The payment date policy is applied consistently to all applicants in a non-discriminatory manner.

* * * * *

■ 45. Section 156.602 is amended by redesignating paragraph (e) as paragraph (f) and adding a new paragraph (e) to read as follows:

§ 156.602 Other coverage that qualifies as minimum essential coverage.

* * * * *

(e) *Foreign group health coverage.* (1) *Foreign group health coverage for expatriates.* The following types of foreign group health coverage will be recognized as minimum essential coverage for expatriates:

(i) Group health coverage for citizens or nationals of the United States working abroad, provided by either of the following:

(A) A foreign, self-insured group health plan.

(B) Health insurance regulated by a foreign government or health coverage provided by a foreign national health plan with respect to a citizen or national of the United States who, for such month, is physically absent from the United States for at least one day of the month, or who is physically present in the United States for an entire month if the coverage provides health benefits within the United States.

(ii) Group health coverage for non-United States citizens or nationals residing in the United States, provided by a self-insured group health plan, health insurance regulated by a foreign government, or health coverage provided by a foreign national health plan, if the coverage provides health benefits within the United States.

(2) *Notice.* The sponsor, issuer, or plan administrator of foreign group health coverage as described in this paragraph (e) must provide notice to enrollees who are citizens or nationals of the United States of its minimum essential coverage status and must comply, if applicable, with the information and reporting requirements of section 6055 of the Code and implementing regulations with respect to those enrollees.

(3) *Definition of expatriate.* For purposes of this section, an expatriate means an individual for whom there is a good faith expectation that such individual will reside outside of their home country or outside of the United States for at least six months of a 12-month period and any covered dependents.

* * * * *

■ 46. Section 156.604 is amended by revising paragraphs (a)(2) introductory text and (d) to read as follows:

§ 156.604 Requirements for recognition as minimum essential coverage for types of coverage not otherwise designated minimum essential coverage in the statute or this subpart.

(a) * * *

(2) *Procedural requirements for recognition as minimum essential coverage.* To be considered for recognition as minimum essential coverage, the sponsor of the coverage, government agency, health insurance issuer, or plan administrator must submit the following information to HHS:

* * * * *

(d) *Notice.* Once recognized as minimum essential coverage, the sponsor of the coverage, government agency, health insurance issuer, or plan administrator must provide notice to all enrollees of its minimum essential coverage status and must comply with the information reporting requirements of section 6055 of the Code and implementing regulations.

■ 47. Section 156.800 is amended by adding paragraph (d) to read as follows:

§ 156.800 Available remedies; Scope.

* * * * *

(d) HHS may consult and share information about QHP issuers with other Federal and State regulatory and enforcement entities to the extent that the consultation and information is necessary for HHS to determine whether an enforcement remedy under subpart I is appropriate.

■ 48. Section 156.805 is amended by—

■ A. Removing ''or'' after the semicolon in paragraph (a)(6).

■ B. Removing the period in paragraph (a)(7) and adding ''; or'' in its place.

■ C. Adding paragraph (d)(3).

■ D. Revising paragraph (e)(2).

The revisions and additions read as follows:

§ 156.805 Bases and process for imposing civil money penalties in Federally-facilitated Exchanges.

* * * * *

(d) * * *

(3) HHS will deliver notice under this paragraph by either hand delivery, certified mail, return receipt requested, or by overnight delivery service with signature upon delivery required.

(e) * * *

(2) HHS will notify the issuer in writing of any penalty that has been assessed under this subpart and of the means by which the QHP issuer or another responsible entity may satisfy the CMP assessment.

* * * * *

■ 49. Section 156.806 is added to read as follows:

§ 156.806 Notice of non-compliance.

If HHS learns of a potential violation described in § 156.805 or if a State informs HHS of a potential violation, prior to imposing any CMPs, HHS must provide a written notice to the issuer, to include the following:

(a) Describe the potential violation.

(b) Provide 30 days from the date of the notice for the QHP issuer to respond and to provide additional information to refute an alleged violation.

(c) State that a civil money penalty may be assessed if the allegations are not, as determined by HHS, refuted.

■ 50. Section 156.810 is amended—

■ A. By revising paragraph (a)(6).

■ C. In paragraph (a)(9) by removing ''or'' after the semicolon.

■ D. In paragraph (a)(10) by removing the period and adding a semicolon in its place.

■ E. By revising paragraph (a)(11).

■ F. By adding a new paragraph (a)(12).

■ G. By revising paragraph (d) introductory text.

The revisions and additions read as follows:

§ 156.810 Bases and process for decertification of a QHP offered by an issuer through a Federally-facilitated Exchange.

(a) * * *

(6) The QHP no longer meets the applicable standards set forth under subpart C of Part 156.

* * * * *

(12) The QHP issuer substantially fails to meet the requirements related to the cases forwarded to QHP issuers under Subpart K; or

(13) The QHP issuer substantially fails to meet the requirements related to the offering of a QHP under Subpart M.

* * * * *

(d) *Expedited decertification process.* For decertification actions on grounds described in paragraphs (a)(6), (7), (8), or (9) of this section, HHS will provide written notice to the QHP issuer, enrollees, and the State department of insurance in the State in which the QHP is being decertified. The written notice must include the following:

* * * * *

■ 51. Section 156.1105 is amended by adding paragraphs (d) and (e) to read as follows:

§ 156.1105 Establishment of standards for HHS-approved enrollee satisfaction survey vendors for use by QHP issuers in Exchanges.

* * * * *

(d) *Monitoring.* HHS will periodically monitor HHS-approved enrollee satisfaction survey vendors to ensure ongoing compliance with the standards in paragraph (b) of this section. If HHS determines that an HHS-approved enrollee satisfaction survey vendor is non-compliant with the standards required in paragraph (b) of this section, the survey vendor may be removed from the approved list described in paragraph (c) of this section and/or the submitted survey results may be ineligible to be included for ESS results.

(e) *Appeals.* An enrollee satisfaction survey vendor that is not approved by HHS after submitting the application described in paragraph (a) of this section may appeal HHS's decision by notifying HHS in writing within 15 days from receipt of the notification of not being approved and submitting additional documentation demonstrating how the vendor meets the standards in paragraph (b) of this section. HHS will review the submitted documentation and make a final approval determination within 30 days from receipt of the additional documentation.

■ 52. Section 156.1120 is added to subpart L to read as follows:

§ 156.1120 Quality rating system.

(a) *Data submission requirement.* (1) A QHP issuer must submit data to HHS and Exchanges to support the calculation of quality ratings for each QHP that has been offered in an Exchange for at least one year.

(2) In order to ensure the integrity of the data required to calculate the QRS, a QHP issuer must submit data that has been validated in a form and manner specified by HHS.

(3) A QHP issuer must include in its data submission information only for those QHP enrollees at the reporting level specified by HHS.

(b) *Timeline.* A QHP issuer must annually submit data necessary to calculate the QHP's quality ratings to HHS and Exchanges, on a timeline and in a standardized form and manner specified by HHS.

(c) *Marketing requirement.* A QHP issuer may reference the quality ratings for its QHPs in its marketing materials, in a manner specified by HHS.

(d) *Multi-State plans.* Issuers of multi-State plans, as defined in § 155.1000(a) of this subchapter, must provide the data described in paragraph (a) of this section to the U.S. Office of Personnel management, in the time and manner specified by the U.S. Office of Personnel Management.

■ 53. Section 156.1125 is added to subpart L to read as follows:

§ 156.1125 Enrollee satisfaction survey system.

(a) *General requirement.* A QHP issuer must contract with an HHS-approved enrollee satisfaction survey (ESS) vendor, as identified by § 156.1105, in order to administer the Enrollee Satisfaction Survey of the QHP's enrollees. A QHP issuer must authorize its contracted ESS vendor to report survey results to HHS and the Exchange on the issuer's behalf.

(b) *Data requirement.* (1) A QHP issuer must collect data for each QHP, with more than 500 enrollees in the previous year that has been offered in an Exchange for at least one year and following a survey sampling methodology provided by HHS.

(2) In order to ensure the integrity of the data required to conduct the survey, a QHP issuer must submit data that has been validated in a form and manner specified by HHS, and submit this data to its contracted ESS vendor.

(3) A QHP issuer must include in its data submission information only for those QHP enrollees at the reporting level specified by HHS.

(c) *Marketing requirement.* A QHP issuer may reference the survey results for its QHPs in its marketing materials, in a manner specified by HHS.

(d) *Timeline.* A QHP issuer must annually submit data necessary to conduct the survey to its contracted ESS vendor on a timeline and in a standardized form and manner specified by HHS.

(e) *Multi-State plans.* Issuers of multi-State plans, as defined in § 155.1000(a) of this subchapter, must provide the data described in paragraph (b) of this section to the U.S. Office of Personnel management, in the time and manner specified by the U.S. Office of Personnel Management.

PART 158—ISSUER USE OF PREMIUM REVENUE: REPORTING AND REBATE REQUIREMENTS

■ 54. The authority citation for part 158 continues to read as follows:

Authority: Section 2718 of the Public Health Service Act (42 U.S.C. 300gg–18), as amended.

■ 55. Section 158.150 is amended by revising paragraph (b)(2)(i)(A)(*6*) to read as follows:

§ 158.150 Activities that improve health care quality.

* * * * *

(b) * * *

(2) * * *

(i) * * *

(A) * * *

(*6*) Commencing with the 2012 reporting year and extending through the first reporting year in which the Secretary requires ICD–10 as the standard medical data code set, implementing ICD–10 code sets that are designed to improve quality and are adopted pursuant to the Health Insurance Portability and Accountability Act (HIPAA), 42 U.S.C. 1320d–2, as amended, limited to 0.3 percent of an issuer's earned premium as defined in § 158.130.

* * * * *

■ 56. Section 158.211 is amended by revising paragraph (a) to read as follows:

§ 158.211 Requirement in States with a higher medical loss ratio.

(a) *State option to set higher minimum loss ratio.* For coverage offered in a State whose law provides that issuers in the State must meet a higher MLR than that set forth in § 158.210, the State's higher percentage must be substituted for the percentage stated in § 158.210. If a State requires the small group market and individual market to be merged and also sets a higher MLR standard for the merged market, the State's higher percentage must be substituted for the percentage

stated in § 158.210 for both the small group and individual markets.

* * * * *

■ 57. Section 158.220 is amended by revising paragraph (a) to read as follows:

§ 158.220 Aggregation of data in calculating an issuer's medical loss ratio.

(a) *Aggregation by State and by market.* In general, an issuer's MLR must be calculated separately for the large group market, small group market and individual market within each State. However, if a State requires the small group market and individual market to be merged, then the data reported separately under subpart A for the small group and individual market in that State must be merged for purposes of calculating an issuer's MLR and any rebates owing.

* * * * *

■ 58. Section 158.221 is amended by adding paragraphs (b)(6) and (7) to read as follows:

§ 158.221 Formula for calculating an issuer's medical loss ratio.

* * * * *

(b) * * *

(6) The numerator of the MLR in the individual and small group markets in States that adopted the transitional policy outlined in the CMS letter dated November 14, 2013 must be the amount specified in this paragraph (b), except that issuers that provided transitional coverage may multiply the total incurred claims and expenditures for activities that improve health care quality incurred in 2014 in the respective State and market by a factor of 1.0001.

(7) The numerator of the MLR in the individual and small group markets for issuers participating in the State and Federal Exchanges (sometimes referred to as ''Marketplaces'') must be the amount specified in this paragraph (b), except that the total incurred claims and expenditures for activities that improve health care quality incurred in 2014 in the respective State and market may be multiplied by a factor of 1.0004.

* * * * *

■ 59. Section 158.231 is amended by revising paragraph (a) to read as follows:

§ 158.231 Life-years used to determine credible experience.

(a) The life-years used to determine the credibility of an issuer's experience are the life-years for the MLR reporting year plus the life-years for the two prior MLR reporting years. If a State requires the small group market and individual market to be merged, then life-years used to determine credibility must be the life-years from the small group market and the individual market for the MLR reporting year plus the life-years from the small group market and the individual market for the two prior MLR reporting years.

* * * * *

■ 60. Section 158.243 is amended by revising paragraph (b)(1) and adding paragraph (b)(3) to read as follows:

§ 158.243 De minimis rebates.

* * * * *

(b) * * *

(1) Except as provided in paragraph (b)(3) of this section, an issuer must aggregate and distribute any rebates not provided because they did not meet the minimum threshold set forth in paragraph (a) of this section by aggregating the unpaid rebates by individual market, small group market and large group market in a State and use them to increase the rebates provided to enrollees who receive rebates based upon the same MLR reporting year as the aggregated unpaid rebates. An issuer must distribute such aggregated rebates by providing additional premium credit or payment divided evenly among enrollees who are being provided a rebate.

* * * * *

(3) If distribution of aggregated unpaid rebates according to paragraph (b)(1) of this section would result in any enrollee(s) receiving rebates that exceed their premium paid during the MLR reporting year, or if no enrollees receive rebates based upon the same MLR reporting year as the aggregated unpaid rebates, then the issuer must not aggregate the unpaid rebates according to paragraph (b)(1) of this section and must instead distribute them according to § 158.241 directly to those enrollees whose rebates did not meet the minimum threshold set forth in paragraph (a) of this section.

Dated: March 11, 2014.

Marilyn Tavenner,

Administrator, Centers for Medicare & Medicaid Services.

Approved: March 13, 2014.

Kathleen Sebelius,

Secretary, Department of Health and Human Services.

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Part III

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10 CFR Part 490

Alternative Fuel Transportation Program; Alternative Fueled Vehicle Credit Program Modification and Other Amendments; Final Rule

DEPARTMENT OF ENERGY

10 CFR Part 490

[Docket ID No. EERE–2011–OT–0066]

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Alternative Fuel Transportation Program; Alternative Fueled Vehicle Credit Program Modification and Other Amendments

AGENCY: Department of Energy (DOE).

ACTION: Final rule.

SUMMARY: Pursuant to section 133 of the Energy Independence and Security Act of 2007 (EISA), DOE is finalizing a rule that revises regulations on the Alternative Fuel Transportation Program (AFTP or the Program). This final rule establishes regulations on the allocation of marketable credits for the acquisition of EISA-specified electric drive vehicles and for investments in qualified alternative fuel infrastructure, qualified alternative fuel non-road equipment, and relevant emerging technologies. DOE also is promulgating modifications to the exemption process and the Alternative Compliance option, as well as a number of technical and other revisions that will make the Program regulations clearer.

DATES: This final rule is effective on April 21, 2014.

ADDRESSES: DOE established a docket for this action under Docket ID No. EERE–2011–OT–0066. The docket is available for review at *http://www.regulations.gov.* All documents in the docket, including **Federal Register** notices, supporting materials, and public comments, are listed in the docket index.

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I. Introduction and Background

This notice of final rulemaking concludes a regulatory action mandated under section 133 of the Energy Independence and Security Act of 2007 (EISA, Pub. L. 110–140). Section 133 calls for DOE to allocate credits to covered State government and alternative fuel provider fleets that acquire various types of electric drive vehicles, and invest in emerging technologies related to those vehicles, qualified alternative fuel infrastructure, and qualified alternative fuel non-road equipment. These allocations impact the Alternative Fuel Transportation Program (AFTP or the Program) under 10 CFR part 490. Under the Program, covered fleets have two avenues for compliance, Standard Compliance (initiated under the Energy Policy Act of 1992 (EPAct 1992, Pub. L. 102–486)) and Alternative Compliance (an optional path provided in the Energy Policy Act of 2005 (EPAct 2005, Pub. L. 109–58)). In conjunction with these allocations required under EISA, DOE is also finalizing modifications to Standard Compliance and Alternative Compliance under the Program.

On October 31, 2011, DOE published the Notice of Proposed Rulemaking (NOPR) associated with this final rule (76 FR 67288). The 60-day comment period closed on December 30, 2011. DOE received eight sets of timely comments, as discussed in Parts II and III below.

The NOPR included a detailed introduction and background discussion. To provide a full context for this final action, DOE has chosen to restate this background material, with appropriate revisions.

Titles III through V of EPAct 1992, as amended at 42 U.S.C. 13201 *et seq.,* focus on the replacement of petroleum transportation fuels with fuels such as alternative fuels and conventional/replacement fuel blends. The provisions in EPAct 1992 encourage the purchase and use of replacement fuels, requiring that certain fleets acquire alternative fueled vehicles (AFVs) as part of their annual light duty vehicle (LDV) acquisitions. Section 301(3) of EPAct 1992 (42 U.S.C. 13211(3)) defines the term ''alternative fueled vehicle'' as a ''dedicated [alternative fuel] or dual fueled vehicle,'' and sections 501 (42 U.S.C. 13251) and 507 (42 U.S.C. 13257) of the statute contain AFV-acquisition mandates for alternative fuel provider fleets and State fleets, respectively. These fleets may earn credits towards their light duty AFV-acquisition requirements in various ways, as provided by section 508 of EPAct 1992 (42 U.S.C. 13258) and the Program regulations at 10 CFR part 490.

Congress has amended the EPAct 1992 fleet program for State and alternative fuel provider (SFP) fleets several times. The amendments have allowed covered fleets to earn additional credits for the use of biodiesel in blends of 20 percent biodiesel or greater and have provided an alternative compliance option. Note

that upon the creation of the ''Alternative Compliance'' option (see discussion in Part II.A), the original program based on AFV acquisitions and biodiesel use became known as ''Standard Compliance.'' Each amendment has allowed the fleets to explore the viability of expanded use of AFVs and alternative fuels and thereby promote the use of replacement fuels.

For the purposes of EPAct 1992 and related programs, the terms ''alternative fuel'' and ''replacement fuel'' both are widely used, but are not interchangeable. While a more specific definition of ''alternative fuel'' is set forth below, in general, alternative fuels include a variety of non-petroleum transportation fuels, as provided in section 301(2) of EPAct 1992. Replacement fuel, as defined in section 301(14), refers to the alternative fuel *portion* of an alternative/petroleum fuel mix or a neat (i.e., 100%) alternative fuel. For example, B20 (a 20 percent blend of biodiesel with 80 percent petroleum diesel) is not an alternative fuel, but the 20 percent that is non-petroleum is considered replacement fuel, while B100 (neat biodiesel) is both an alternative fuel and a replacement fuel.

The primary focus of this final rule is section 133 of EISA, which amended section 508 of EPAct 1992. EISA section 133 provides definitions and directs DOE to allocate credits under section 508 for the acquisition by covered fleets of various types of electric drive vehicles, and for investments by covered fleets in qualified alternative fuel infrastructure, non-road equipment, and emerging technologies related to those electric drive vehicles. As discussed in more detail below, some of the electric drive vehicles within the definitions provided in section 133 already meet the EPAct 1992 definition of an AFV and therefore already are counted towards a fleet's light duty AFV-acquisition requirements or receive one credit under the AFTP, as appropriate, while others do not currently meet the AFV definition. In this action, DOE is finalizing credit allocations under the AFTP for the acquisition by covered fleets of those section 133-identified electric drive vehicles that do not already qualify as AFVs, and for several specific types of investments that covered fleets may make. These credit allocations would only impact SFP fleets operating under Standard Compliance.

DOE also is finalizing today modifications to several aspects of the existing AFTP. These modifications will enhance the timeliness of exemption requests and revise the deadline for submitting Alternative Compliance waiver applications. Finally, DOE is making a number of clarifications and revisions to make the AFTP regulations consistent with amendments to EPAct 1992.

A. General

The overall objectives of the fleet programs and other efforts under Titles III–V of EPAct 1992 are to expand the use of alternative fuels and AFVs within specified fleets and to replace petroleum with replacement fuels to the ''maximum extent practicable.'' [1] The requirements of Titles III through V of EPAct 1992 focus on particular fleets, such as SFP fleets (which are the subjects of this rule) and Federal fleets,[2] as well as voluntary activities, such as those implemented under DOE's Clean Cities Program.[3] The mandated programs for centrally-fueled fleets seek to catalyze maximum use of replacement fuels, and, in particular, alternative fuels.

As indicated above, EPAct 1992 establishes AFV-acquisition requirements for SFP fleets, which DOE codified as the AFTP at 10 CFR 490.1 *et seq.*[4] Titles III, IV, and V of EPAct 1992 focus on requirements for certain centrally-fueled fleets to acquire AFVs.

EPAct 1992 requires that SFP fleets acquire AFVs as minimum percentages of their annual LDV acquisitions (now 90 percent for alternative fuel provider fleets and 75 percent for State fleets, in sections 501(a) and 507(o), respectively). The types of vehicles that satisfy the SFP fleet acquisition mandates are determined primarily by the definitions of ''alternative fuel'' and ''alternative fueled vehicle'' in section 301 of the statute. The threshold that determines whether an SFP fleet is subject to these respective acquisition mandates turns on the size and location criteria set forth in the section 301 definitions of ''fleet'' and ''covered person.'' Generally, covered fleets under the AFTP are those State government entities and alternative fuel providers that own, operate, lease, or otherwise control 50 or more non-excluded LDVs, at least 20 of which are capable of being centrally fueled and are used primarily in a metropolitan statistical area (MSA) or consolidated MSA with a 1980 Census population of more than 250,000.

Consistent with sections 501(a)(5) and 507(i)(1) of EPAct 1992, the AFTP regulations provide a process through which State fleets and alternative fuel provider fleets, respectively, may request exemptions from the applicable AFV-acquisition requirements for a particular model year. All covered fleets may seek an exemption on the basis of lack of available AFVs or lack of available alternative fuels; State fleets also may seek an exemption on the basis of unreasonable financial hardship.

Under section 507(o)(2) of EPAct 1992 and its implementing regulation, 10 CFR 490.203, States may submit a Light Duty Alternative Fueled Vehicle Plan to DOE for approval, which serves as an additional compliance option. An approved plan relieves those State fleets that are included in the plan from otherwise having to meet the AFV-acquisition mandate on their own. While the plan must provide for voluntary acquisitions or conversions by State, local, and private fleet participants that, in the aggregate, equal or exceed the State's AFV-acquisition requirement, there is no limit to the number of State, local, and private fleets that may participate in the plan. Any such plan must include, among other information, a certification from the appropriate State official and a written statement of commitment from each plan participant.

Under the AFTP, covered fleets can earn, sell, or purchase AFV-acquisition credits. Section 508 of EPAct 1992 enables fleets to earn bankable and tradable credits by acquiring AFVs prior to or in excess of requirements. DOE's implementing regulations for the credit program appear at Subpart F of 10 CFR part 490.

In practice, SFP fleets typically generate surplus credits in one of two ways—either by acquiring in a particular model year more of their covered LDVs as AFVs (such as acquiring 100 percent as AFVs instead of the required 75 or 90 percent), or by acquiring AFVs in ''excluded vehicle'' classes (such as employee take-home vehicles or law enforcement vehicles).[5] As indicated, they are also able to generate credits by acquiring AFVs earlier than required. Fleets may use the surplus credits generated in these ways

[1] 42 U.S.C. 13252(a).

[2] Under section 303 of EPAct 1992 (42 U.S.C. 13212), Federal fleets were required to acquire AFVs starting in Fiscal Year (FY) 1993, increasing their acquisitions to 75 percent of all covered acquisitions in FY 1999 and thereafter.

[3] Under section 505 of EPAct 1992 (42 U.S.C. 13255), DOE obtains voluntary commitments from fuel suppliers to make replacement fuels available, from fleets to acquire AFVs and use alternative fuels, and from vehicle manufacturers to make AFVs and related services available to the public. These commitments comprise the Clean Cities Program, which works to bring together all necessary parties in given geographic areas to further the use of alternative fuels.

[4] DOE promulgated the AFTP regulations on March 14, 1996. 61 FR 10622.

[5] *See* 10 CFR 490.3.

in future model years to cover shortfalls (banking), or they may sell or trade the credits to other covered fleets. For a fleet that has not met its AFV-acquisition requirement in a particular model year, purchasing or trading for credits is a viable means by which to attain AFTP compliance inasmuch as the fleet can obtain the necessary number of credits and thereby compensate for its failure to acquire the requisite number of AFVs.

The Energy Conservation Reauthorization Act of 1998 (Pub. L. 105–388) included an amendment to the EPAct 1992 Title V fleet AFV-acquisition requirement, allowing SFP fleets to use biodiesel blends (of at least 20 percent biodiesel, B20) as an alternative means of complying with a portion of their AFV-acquisition requirements (limited to meeting 50 percent of requirements, except for biodiesel fuel providers). In EPAct 2005, Congress again amended the Title V fleet program by providing an optional compliance path for covered fleets called ''Alternative Compliance.'' Under this option, an SFP fleet may apply for an Alternative Compliance waiver that, if granted by DOE, enables the fleet to implement various means of achieving petroleum reductions, including but not limited to the use of alternative fuels, the use of biodiesel blends without either the B20 threshold or the 50 percent cap that apply under Standard Compliance, fuel economy improvements, the purchase of hybrid and other advanced technology (higher efficiency) vehicles, idle time reductions, and a reduction in vehicle miles traveled, in lieu of complying through AFV acquisitions and/or biodiesel use (under Standard Compliance). The addition of this Alternative Compliance option provided additional flexibility to fleets exploring the use of alternative fuels, as well as certain fuel efficiency technologies (e.g., hybrid vehicles, idle reduction) and trip reduction approaches. In fact, the Alternative Compliance option already allows fleets to explore many of the technologies that are the subject of this final rule.

This final rule implements EISA section 133, establishing regulations to allocate to covered fleets operating under Standard Compliance credits under section 508 for the acquisition of various types of electric drive vehicles, and for investments in qualified alternative fuel infrastructure, non-road equipment, and emerging technologies related to specific vehicle types. In developing this rule, DOE has been guided by the fact that EISA section 133 specifically amends section 508 of EPAct 1992 and requires DOE to revise the manner in which credits may be earned by covered fleets for purposes of achieving SFP fleet compliance. For this reason, DOE is assigning credits to those electric drive vehicles identified in section 133 that do not already qualify as AFVs based on a yardstick of petroleum displacement, rather than simply treating the vehicles as equivalent to AFVs. The section 133-identified vehicles that already qualify as AFVs already are counted towards a fleet's light duty AFV-acquisition requirements or receive one credit, as appropriate.

B. Current Status of Alternative Fuel Transportation Program

Since Model Year (MY) 2000, the AFTP has been highly successful. Through MY 2011, covered SFP fleets acquired more than 201,000 AFVs. Annually, these fleets typically are acquiring between 10,000 and 14,000 AFVs.

SFP fleets unable to acquire AFVs or without alternative fuel available for AFVs may file for exemptions from the AFV-acquisition requirements, in accordance with the provisions of EPAct 1992 sections 501(a)(5) and 507(i). Since MY 1997, DOE has received nearly 390 exemption requests, granting exemptions and thereby relieving the requesting fleets from having to acquire more than 10,225 AFVs.

Covered fleets have used and continue to use the credit program regularly. In the early stages of the AFTP, the primary users of credits were the fleets generating and banking them to provide additional compliance flexibility in future years. Since MY 1997, covered SFP fleets have applied approximately 31,000 credits to meet AFV-acquisition requirements. Subsequently, while applying banked credits has remained a significant use of surplus credits, a number of fleets have been selling their credits, with approximately 1,000–1,500 credits now being exchanged each year, and more than 11,700 credits having been exchanged over the life of the Program. Overall, covered fleets currently hold approximately 70,000 banked credits, enough credits for perhaps four or more years of operation of the entire AFTP if covered fleets did not acquire any AFVs but instead traded and applied banked credits.

C. Statutory Authority

1. EISA

EISA section 133 amended section 508 of EPAct 1992 by providing definitions of specific electric drive vehicles. These electric drive vehicles include ''fuel cell electric vehicles,'' ''hybrid electric vehicles,'' ''medium- or heavy-duty electric vehicles,'' ''neighborhood electric vehicles,'' and ''plug-in electric drive vehicles.'' (42 U.S.C. 13258(a)) EISA section 133(3) further amended section 508 by directing DOE to allocate credit ''in an amount to be determined by [DOE]'' for the acquisition of these electric drive vehicles, as well as for ''investment in qualified alternative fuel infrastructure or nonroad equipment, as determined by [DOE].'' (42 U.S.C. 13258(b)(2)(A)) DOE is also directed to ''allocate more than 1, but not to exceed 5, credits for investment in an emerging technology relating to any'' of the enumerated electric drive vehicles ''to encourage'' petroleum and vehicle emissions reductions and technological advancement. (42 U.S.C. 13258(b)(2)(B))

Considered broadly, section 133 requires that DOE allocate some level of credit for additional vehicle types and various investments, further expanding the list of options that covered fleets may use in their efforts to comply with EPAct 1992's AFV-acquisition requirements. Importantly, section 133 does not define, nor require DOE to define, the specified vehicle types as AFVs—it merely calls for DOE to allocate some level of credit to these vehicle types.

DOE reiterates that EISA section 133 revised section 508 of EPAct 1992, which pertains to SFP fleets. This final rule therefore addresses SFP fleets only, and not Federal fleets.

The allocations that DOE is adopting today are intended to ensure consistency with the overall approach of the relevant provisions of EPAct 1992, which focus on the replacement of petroleum fuels through the use of replacement fuels to the maximum extent practicable.

To understand the allocations, it is critical to consider the AFTP's existing definitions. As discussed throughout this final rule, if a given vehicle type already qualifies as an AFV, it is already eligible for either one credit (when it is an excess or early acquisition) under the existing AFTP or, assuming it is an LDV, to be counted towards a fleet's light duty AFV-acquisition requirements. If the vehicle is not an AFV, the focus shifts to whether the specific vehicle type is among the electric drive vehicles set forth in EISA section 133 and for which Congress directed DOE to determine a specific credit level. Similarly, only those investments that fit within the definitions provided in this final rule will receive credit under the AFTP.

2. Additional Revisions

DOE is also finalizing today various AFTP modifications it proposed that are unrelated to EISA. These modifications, discussed more fully in Part III.D below, include establishing a timeframe for the submission of exemption requests and setting a single due date for Alternative Compliance waiver applications. Like the existing regulations in 10 CFR part 490, the statutory basis for these modifications lies in Titles III–V of EPAct 1992, as amended.

II. Public Comments

On October 31, 2011, DOE published in the **Federal Register** its NOPR proposing credit allocations for acquisitions of certain electric drive vehicles and investments in certain infrastructure and technologies, as well as making several other modifications to the Alternative Fuel Transportation Program. The NOPR stated that DOE would consider public comments received on or before December 30, 2011.[6] DOE received timely written comments from eight organizations, including the American Public Gas Association (APGA), Eaton Corporation, the Edison Electric Institute (EEI), the Electric Drive Transportation Association (EDTA), Florida Power & Light Co. (FP&L), Natural Gas Vehicles for America (NGV America), the National Electrical Manufacturers Association (NEMA), and Securing America's Future Energy (SAFE). All of these comments are available in the public docket for this rulemaking. The specific issues raised by the commenters are addressed in Part III below.

III. Discussion of the Final Rule

In this section of the preamble, DOE discusses the AFTP definitions that are key to DOE's approach to the allocation of credits under EISA section 133, as well as the existing AFTP definitions that DOE is amending through this action.

A. Existing Definitions

1. Alternative Fuel

The definition of ''alternative fuel'' for purposes of EPAct 1992 and its fleet programs is provided in section 301(2),[7] and the corresponding AFTP definition appears at 10 CFR 490.2. DOE proposed to add to the regulatory definition the phrase ''including liquid fuels domestically produced from natural gas,'' which Congress added to the section 301(2) definition in 2000.[8] DOE did not receive any comments on this revision, and is finalizing it as proposed.

2. Alternative Fueled Vehicle

As provided in section 301(3) of EPAct 1992, an alternative fueled vehicle is ''a dedicated vehicle or a dual fueled vehicle.'' Thus, for a vehicle to be counted towards a fleet's AFV-acquisition requirements or receive full (i.e., one) credit under the AFTP, as appropriate, it must either be a ''dedicated vehicle,'' which is a vehicle that operates solely on alternative fuel, or a ''dual fueled vehicle,'' which is a vehicle that has some capability for switching back and forth from alternative fuel to conventional fuel (such as a bi-fuel natural gas/gasoline vehicle) or otherwise can operate on a blend of alternative and conventional fuel (such as a flexible fuel vehicle). DOE pointed out in the NOPR that Congress has never amended the statutory definition of an AFV as it applies to SFP fleets, though Congress has, through section 2862 of the National Defense Authorization Act for Fiscal Year 2008 (Pub. L. 110–181), amended the definition as it applies to Federal fleets.

The corresponding AFTP definition of the term ''alternative fueled vehicle'' appears at 10 CFR 490.2. When DOE established this definition, it included language in the regulatory text clarifying that flexible fuel vehicles (FFVs) are encompassed within the definition, and also provided a separate definition of the term ''flexible fuel vehicle.'' In the NOPR, DOE set forth that FFVs qualify as ''dual fueled automobiles'' under the Energy Policy and Conservation Act (EPCA) definition of that term (codified at 49 U.S.C. 32901(a)(9)), and thus also as AFVs. DOE therefore proposed to streamline the regulatory definition of an AFV by deleting the parenthetical reference to FFVs. DOE also proposed to delete the AFTP definition of ''flexible fuel vehicle'' and subsection (3) in the AFTP definition of ''dual fueled vehicle.'' DOE did not receive any comments on these revisions, and is finalizing them as proposed.

3. Automobile

DOE proposed to amend the AFTP definition of ''automobile'' by making it consistent with the EPCA definition of the term, which Congress revised in section 103(a) of EISA. Specifically, DOE proposed to define an ''automobile'' for purposes of the AFTP as ''a 4-wheeled vehicle that is propelled by conventional fuel, or by alternative fuel, manufactured primarily for use on public streets, roads, and highways and having a gross vehicle weight rating of less than 10,000 pounds,'' with explicit exceptions for vehicles operated only on a rail line, certain vehicles manufactured in different stages by two or more original equipment manufacturers, and work trucks. Importantly, DOE emphasized that while the proposed definition in 10 CFR 490.2 would contain an express gross vehicle weight rating cutoff of ''less than 10,000 pounds,'' a covered fleet's light duty AFV-acquisition requirement in a particular model year would continue to hinge on the total number of ''light duty motor vehicles'' the fleet acquired during that model year. DOE further emphasized that the regulatory definition of the term ''light duty motor vehicle'' would be unchanged, i.e., an LDV would continue to be a light duty truck or light duty vehicle with a gross vehicle weight rating of 8,500 pounds or less, in accordance with section 301(11) of EPAct 1992 (42 U.S.C. 13211(11)). Consistent with the revised EPCA definition of ''automobile,'' DOE also proposed to add to the AFTP definition of ''automobile'' a reference to, and a definition of, the term ''work truck.''

DOE did not receive any comments on the definitions of ''automobile'' and ''work truck,'' and is finalizing them as proposed. In the interest of clarity, DOE also point outs today that it construes ''intermediate original equipment manufacturer'' and ''final-stage original equipment manufacturer,'' as those terms are used in the second exception to the definition of an ''automobile,'' in accordance with the meanings given those terms by the National Highway Traffic Safety Administration (NHTSA).[9]

4. Dedicated Vehicle

The AFTP regulations at 10 CFR 490.2 currently define the term ''dedicated vehicle'' to mean:

(1) An automobile that operates solely on alternative fuel; or

(2) A motor vehicle, other than an automobile, that operates solely on alternative fuel.[10]

For example, a battery electric vehicle (EV) is considered a dedicated vehicle and hence an AFV, as defined above, because electricity, the only fuel on which the vehicle operates, is an ''alternative fuel.'' A hybrid electric vehicle (HEV) with an engine that operates solely on alternative fuel (e.g., compressed natural gas (CNG)) also

[6] 76 FR at 67288.

[7] 42 U.S.C. 13211(2).

[8] *See* Public Law 106–554 App. D, Div. B, Title I, section 122, as codified at 42 U.S.C. 13211(2).

[9] *See* 49 CFR 529.3 and 567.3.

[10] In addition to ''automobile,'' as discussed in the text above, section 490.2 of the Program regulations provides a definition of the term ''motor vehicle.'' *See* 10 CFR 490.2.

would be considered a dedicated vehicle under the AFTP, and thus an AFV.

To address the future possibility that certain vehicles may operate exclusively on more than one alternative fuel, DOE proposed to amend the regulatory definition of ''dedicated vehicle'' so that it states ''operates solely on one or more alternative fuels.'' DOE, which did not receive any comments on this issue, is finalizing the revision as proposed.

5. Dual Fueled Vehicle

The AFTP regulations at 10 CFR 490.2 currently define the term ''dual fueled vehicle'' to mean:

(1) An automobile that meets the criteria for a dual fueled automobile, as that term is defined in section 513(h)(1)(C) of the Motor Vehicle Information and Cost Savings Act, 49 U.S.C. 32901(a)(8); or

(2) A motor vehicle, other than an automobile, that is capable of operating on alternative fuel and on gasoline or diesel; or

(3) A flexible fuel vehicle.

DOE proposed to amend subsection (1) of this definition so that it refers to the correct statutory citation for the dual fueled automobile definition, 49 U.S.C. 32901(a)(9). DOE did not receive any comments on this revision, and is finalizing it as proposed. As discussed in Part III.A.2 above, DOE also proposed, and is finalizing the deletion of subsection (3) on the grounds that it is no longer necessary.

In the NOPR, DOE explained that it has always interpreted the definition of dual fueled vehicle in the context of NHTSA's minimum driving range criteria. Under those criteria, for a passenger automobile to be considered a dual fueled automobile, it must be able to drive at least 200 miles when operating on the alternative fuel; for a dual fueled electric passenger automobile, the automobile must be able to operate on a full U.S. Environmental Protection Agency (EPA) urban test cycle and a full EPA highway test cycle on electricity alone, which means it must meet all speed and acceleration requirements over a total of 17.7 miles, albeit with charging allowed prior to each of the two test cycles.[11] DOE stressed that only motor vehicles that meet these minimum driving range criteria qualify as dual fueled vehicles and hence are considered AFVs under the AFTP.

In the context of plug-in hybrid electric vehicles (PHEVs), DOE added that to the extent that questions arose as to whether a PHEV is a dual fueled vehicle, DOE would look to NHTSA, meaning that if NHTSA considers a particular automobile to be dual fueled under EPCA (i.e., for corporate average fuel economy (CAFE) purposes), then DOE would treat the vehicle as a dual fueled vehicle and hence an AFV under the AFTP.

EEI and SAFE took issue with DOE's reliance on the NHTSA minimum driving range criteria as applied to PHEVs. EEI essentially contended that the criteria are outdated and biased against ''blended'' range PHEVs that EEI claimed manufacturers plan to offer.[12] EEI argued that like PHEVs that have been optimized for all-electric range, PHEVs with blended ranges offer considerable petroleum reduction benefits. EEI requested that DOE assess whether a particular PHEV is a dual fueled vehicle based on the Society of Automotive Engineers' (SAE) utility factor approach, SAE J2841,[13] with a PHEV having a utility factor at or above 0.2 qualifying, and a PHEV with a utility factor below 0.2 not qualifying as a dual fueled vehicle. SAFE claimed that DOE is not obligated to apply the minimum driving range criteria, either to PHEVs or to dual fueled vehicles more generally, and urged DOE to adopt a dual fueled vehicle definition that does not have a minimum all-electric range. While initially supporting DOE's use of the NHTSA minimum driving range criteria (indicating its concurrence with one credit for PHEVs that can complete the urban and highway cycles on electricity alone), EDTA indicated that the existing NHTSA methodology is problematic for blended operation PHEVs and recommended that the methodology be updated.

DOE disagrees with these comments. Congress defined the term ''dual fueled vehicle'' in section 301(8) of EPAct 1992 (42 U.S.C. 13211(8)), and that definition incorporates the EPCA definition of a dual fueled automobile, which definition, in turn, expressly includes the minimum driving range requirement for dual fueled passenger automobiles (49 U.S.C. 32901(a)(9)(D)). DOE cannot ignore, and does not have the authority to revise, the criteria prescribed by NHTSA under 49 U.S.C. section 32901(c).

Moreover, EPA determines whether a particular vehicle meets the NHTSA minimum driving range requirement applicable to dual fueled electric automobiles. DOE relies, and must continue to rely, on EPA and NHTSA for this key information. Once it is determined that a particular PHEV meets the driving range requirement and, thus, qualifies as a dual fueled electric automobile, DOE will treat the vehicle as an AFV and either count it towards the fleet's AFV-acquisition requirements or accord it one credit (when it is an excess or early acquisition). Conversely, a PHEV that does not meet the minimum driving range requirement will be treated by DOE as a non-AFV PHEV.[14]

6. Electric Motor Vehicle and Electric-Hybrid Vehicle

DOE proposed to remove the ''electric motor vehicle'' and ''electric-hybrid vehicle'' definitions from 10 CFR 490.2, and to delete section 490.307 from the AFTP regulations on the grounds that the electric utility option contained in that section was time limited and the period for the option had long since passed. DOE explained in the NOPR that the definitions would be extraneous in the absence of the electric utility option. DOE invited public comments on these proposed deletions, but received none. Consequently, DOE is finalizing the amendments as proposed.

Because the deleted definitions of ''electric motor vehicle'' and ''electric-hybrid vehicle'' were the sole reasons for listing title VI of EPAct 1992 in section 490.1(a) of the AFTP regulations, DOE also is revising that regulatory provision by deleting the reference to title VI.

7. Section 133-Identified Vehicles That Already Qualify as AFVs

Of the electric drive vehicles identified in EISA section 133, DOE notes that several types of vehicles within those definitions already qualify as AFVs and, for that reason, already are counted towards a fleet's light duty

[11] 49 CFR 538.5 and 538.6. The test cycles consist of 7.5 miles of urban driving and 10.2 miles of highway driving.

[12] DOE's understanding is that ''blended'' range PHEVs are typically designed in a manner to maximize overall battery management. As such, ''blended'' range PHEVs may be designed (though not always) with some level of all-electric range, but that all-electric operation may not necessarily apply to all load or speed conditions (including all conditions required under the EPA urban and highway test cycles). For example, even for a ''blended'' range PHEV designed with some level of all-electric range, operation purely on electricity may only be available up to a certain vehicle speed or acceleration level.

[13] *See http://www.sae.org,* specifically SAE J2841, ''Utility Factor Definitions for Plug-In Hybrid Electric Vehicles Using Travel Survey Data'' (Sept. 21, 2010).

[14] For MY 2014 and later PHEVs, DOE encourages covered fleets to review the EPA/DOT (i.e., Department of Transportation) Fuel Economy and Environment label (a/k/a, the fuel economy window sticker, sometimes known as the Monroney label) that is posted on all new LDVs. *See* 76 FR 39478 (July 6, 2011). If the label contains the statement, ''[t]his is a dual fueled automobile,'' then the PHEV is a dual fueled vehicle and hence an AFV under the AFTP.

AFV-acquisition requirements or receive one credit under the AFTP, as appropriate. These include certain HEVs, PHEVs, and fuel cell electric vehicles (FCEVs), light duty battery electric vehicles, and medium- or heavy-duty battery electric vehicles.

An HEV or PHEV equipped with an engine that is capable of operating on a liquid or gaseous alternative fuel (e.g., E85 or CNG) is either a dual fueled vehicle (if the engine can operate on the alternative fuel and on gasoline or diesel) or a dedicated vehicle (if the engine operates solely on the alternative fuel), and, consequently, already an AFV. Similarly, a PHEV with a conventional gasoline (or other petroleum-fueled) engine is a dual fueled vehicle and therefore already an AFV under the AFTP if it qualifies as a dual fueled electric automobile under the applicable NHTSA criteria.

FCEVs, as discussed more fully in Parts III.B.1 and III.C.2.c below, use a ''fuel cell,'' which typically is fueled by hydrogen, an alternative fuel, but which can also be fueled by a petroleum fuel (e.g., gasoline or diesel). An FCEV that operates on alternative fuel is either a dedicated vehicle (if the FCEV's fuel cell is fueled solely by an alternative fuel such as hydrogen) or a dual fueled vehicle (if the FCEV's fuel cell can be fueled by an alternative fuel, such as hydrogen, and by gasoline or diesel fuel) and, consequently, already an AFV under the AFTP.

Battery EVs (e.g., the Nissan Leaf, Tesla Model S, Ford Focus Electric, Honda Fit EV, and Mitsubishi i-MiEV) are already considered AFVs under section 301 of EPAct 1992 by virtue of electricity's inclusion within the definition of alternative fuel. Hence, when acquired by covered fleets, they, too, are already eligible to be counted as AFV acquisitions under the AFTP. Finally, medium- or heavy-duty battery electric vehicles (e.g., the Smith Electric Newton) likewise are entitled to one credit because they, too, already qualify as AFVs (although to receive credit for the medium- or heavy-duty AFV, the covered fleet first must meet its light duty AFV-acquisition requirement, as discussed in Part III.C.2.e below).

In sum, the following already qualify as AFVs: (1) HEVs and PHEVs with an engine that operates solely on alternative fuel or one that can operate on alternative fuel and on gasoline or diesel; (2) PHEVs that meet the NHTSA minimum driving range criteria and thus qualify as dual fueled electric automobiles; (3) FCEVs that operate solely on alternative fuel or on alternative fuel and on gasoline or diesel; (4) light duty battery electric vehicles; and (5) medium- or heavy-duty battery electric vehicles. As a result, these vehicles are already entitled to be counted towards a fleet's light duty AFV-acquisition requirements (assuming they are LDVs) or to receive one credit under the AFTP, although in the case of medium- or heavy-duty AFVs, they are not entitled to credit until the fleet has met its light duty AFV-acquisition requirement.

B. New Definitions: EISA Section 133 Vehicles and Investments

As described in the following paragraphs, DOE is finalizing definitions of various terms for purposes of Subpart F of the AFTP regulations, in accordance with the definitions provided in section 508(a) of EPAct 1992, as amended by EISA section 133.

1. Fuel Cell Electric Vehicle

A ''fuel cell electric vehicle'' is defined for purposes of section 508 of EPAct 1992, as amended, as an ''on-road or non-road vehicle that uses a fuel cell (as defined in section 803 of the Spark M. Matsunaga Hydrogen Act of 2005 (42 U.S.C. 16152)).'' Section 803 of the Hydrogen Act of 2005 defines a ''fuel cell'' as a ''device that directly converts the chemical energy of a fuel, which is supplied from an external source, and an oxidant into electricity by electrochemical processes occurring at separate electrodes in the device.'' Typically, FCEVs are actually fuel cell hybrid vehicles that include some form of electric storage medium (such as batteries) to allow for better matching of vehicle generation capabilities to performance demand. Most FCEVs currently under development are fueled by hydrogen, either in compressed or liquefied form, but some that have been developed use onboard reformers to allow fueling with other fuels (e.g., petroleum fuels or other alternative fuels like methanol or natural gas).

DOE proposed adopting in Subpart F of the AFTP regulations the statutory definition of ''fuel cell electric vehicle,'' albeit with the substitution of ''motor vehicle'' in place of the term ''on-road.'' DOE did not receive any comments on the proposed FCEV definition, and is finalizing it in 10 CFR 490.501.[15]

2. Hybrid Electric Vehicle

EISA section 133 defines a ''hybrid electric vehicle'' for purposes of section 508 of EPAct 1992, as amended, as a ''new qualified hybrid motor vehicle (as defined in section 30B(d)(3) of the Internal Revenue Code of 1986).'' Section 30B(d)(3) of the Internal Revenue Code (26 U.S.C. 30B(d)(3)) defines the term ''new qualified hybrid motor vehicle'' and sets specific conditions for purposes of meeting this definition, including that a motor vehicle be one that ''draws propulsion energy from onboard sources of stored energy which are both an internal combustion or heat engine using consumable fuel and a rechargeable energy storage system'' and has a maximum available power of a set minimum amount. In the case of a light duty vehicle, the vehicle also must be one that ''has received a certificate of conformity under the Clean Air Act and meets or exceeds the [applicable] equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act'' as well as ''the [applicable] emission standard [established by EPA] under section 202(i) of the Clean Air Act,'' among other conditions.[16] In the case of a vehicle with a gross vehicle weight rating of more than 8,500 pounds, the vehicle also must be one that ''has an internal combustion engine which has received a certificate of conformity under the Clean Air Act as meeting the emission standards set [by EPA for] diesel heavy duty engines or ottocycle heavy duty engines,'' among other conditions.[17]

DOE proposed adopting in Subpart F of the AFTP regulations the EISA section 133 definition of ''hybrid electric vehicle.'' DOE did not receive any comments on the proposed HEV definition, and is finalizing it in 10 CFR 490.501.[18]

3. Medium- or Heavy-Duty Electric Vehicle

EISA section 133 defines a ''medium- or heavy-duty electric vehicle'' for purposes of section 508 of EPAct 1992, as amended, as ''an electric, hybrid electric, or plug-in hybrid electric

[15] DOE notes that the AFTP definition of an FCEV is not identical to the definition of ''fuel cell vehicle'' found in EPA's light duty vehicle greenhouse gas emission standards under the Clean Air Act. *See* 40 CFR 86.1803–01; 75 FR 25324, 25684 (May 7, 2010). However, this final rule is consistent with EISA section 133.

[16] *See generally* Internal Revenue Service, Notice 2006–9—Credit for New Qualified Alternative Motor Vehicles (Advanced Lean Burn Technology Motor Vehicles and Qualified Hybrid Motor Vehicles), available at *http://www.irs.gov/irb/2006-06_IRB/ar11.html.*

[17] *See generally* Internal Revenue Service, Notice 2007–23—Credit for New Qualified Heavy-Duty Hybrid Motor Vehicles, available at *http://www.irs.gov/irb/2007-23_IRB/ar08.html.*

[18] DOE notes that the AFTP definition of an HEV is not identical to the HEV definition found in EPA's light duty vehicle greenhouse gas emission standards under the Clean Air Act. *See* 40 CFR 86.1803–01; 75 FR 25324, 25684 (May 7, 2010). However, this final rule is consistent with EISA section 133.

vehicle with a gross vehicle weight of more than 8,501 pounds.'' To be consistent with section 301(11) of EPAct 1992, which defines a light duty motor vehicle as a vehicle weighing 8,500 pounds or less, DOE proposed to define a medium- or heavy-duty electric vehicle in 10 CFR 490.501 as ''an electric, hybrid electric, or plug-in hybrid electric vehicle with a gross vehicle weight rating of more than 8,500 pounds.''

EEI recommended that the proposed definition be broadened to include medium- and heavy-duty battery EVs and FCEVs, while EDTA requested that DOE clarify that the proposed definition encompasses medium- and heavy-duty battery EVs, HEVs, PHEVs, and FCEVs.

Except for FCEVs, DOE's proposed definition of ''medium or heavy-duty electric vehicle'' expressly included all of the medium- and heavy-duty vehicles mentioned by these commenters, and DOE maintains that no revision or additional clarification is needed. With respect to ''medium- or heavy-duty FCEVs,'' although DOE proposed to define them separately, it also proposed to treat these vehicles in the same manner as ''medium- or heavy-duty electric vehicles''—½ credit for those that are not AFVs. DOE is finalizing the definitions as proposed.[19]

4. Neighborhood Electric Vehicle

EISA section 133 defines a ''neighborhood electric vehicle'' (NEV) for purposes of section 508 of EPAct 1992, as amended, as ''a 4-wheeled on-road or nonroad vehicle that—(A) has a top attainable speed in 1 mile of more than 20 mph and not more than 25 mph on a paved level surface; and (B) is propelled by an electric motor and [an] on-board, rechargeable energy storage system that is rechargeable using an off-board source of electricity.'' In the NOPR, DOE proposed to adopt this statutory definition in Subpart F of the AFTP regulations.

EEI suggested that the maximum attainable speed of 25 mph be increased, and that the proposed definition be revised further to enable vehicles with more than 4 wheels to qualify. DOE notes that it does not have the authority to modify the definitional criteria Congress established. Consequently, DOE is finalizing the proposed NEV definition in 10 CFR 490.501.

5. Plug-In Electric Drive Vehicle

EISA section 133 defines a ''plug-in electric drive vehicle'' for purposes of section 508 of EPAct 1992, as amended, as ''a vehicle that — (A) draws motive power from a battery with a capacity of at least 4 kilowatt-hours; (B) can be recharged from an external source of electricity for motive power; and (C) is a light-, medium-, or heavy-duty motor vehicle or nonroad vehicle (as those terms are defined in section 216 of the Clean Air Act (42 U.S.C. 7550)).'' Section 216 of the Clean Air Act defines the term ''motor vehicle'' to mean ''any self-propelled vehicle designed for transporting persons or property on a street or highway,'' and it defines ''nonroad vehicle'' as a vehicle that is ''powered by a nonroad engine and that is not a motor vehicle or a vehicle used solely for competition.'' DOE proposed to adopt in Subpart F of the AFTP regulations the section 133 definition of ''plug-in electric drive vehicle.''

DOE explained in the NOPR that there are two primary forms of plug-in electric drive vehicles: (1) Battery EVs; and (2) PHEVs, assuming they have a minimum battery capacity of four kilowatt-hours (kWh).[20] For the purposes of this rulemaking, PHEVs are considered similar in many cases to today's available HEVs, but PHEVs include greater electric storage capacity (and therefore use either a different type of battery or simply more/larger batteries than HEVs), possess the capability to recharge their electric storage system by ''plugging in'' to an off-board source, and typically have the capability for some electric-only operation. As indicated above, DOE considers a PHEV that is equipped with a conventional gasoline (or other petroleum-fueled) engine to be a dual fueled vehicle, and thus also an AFV, if it is able to complete the EPA urban and highway test cycles on electricity alone.

SAFE urged DOE to eliminate from the plug-in electric drive vehicle definition the four kWh minimum battery capacity, contending that the requirement is inappropriate because plug-in vehicles with a lower battery capacity could displace considerably more petroleum than FFVs operating on gasoline. DOE emphasizes in response that it is bound by the EISA section 133 definition of ''plug-in electric drive vehicle,'' and does not have the authority to modify the criteria set by Congress. If a PHEV with a battery capacity below the four kWh minimum in fact becomes available, DOE notes that although such a vehicle would not qualify as a plug-in electric drive vehicle and, as a result, would not be eligible for the ½ credit that DOE is allocating today to non-AFV plug-in electric drive vehicles (see Part III.C.2.b below), a covered fleet acquiring such a vehicle would still receive ½ credit because the vehicle would qualify as a non-AFV hybrid electric vehicle (see Part III.C.2.a below). Furthermore, notwithstanding the vehicle's insufficient battery capacity, if it is equipped with a liquid or gaseous alternative fuel-capable engine, the vehicle, as an AFV, would entitle the acquiring fleet either to count the vehicle as an AFV acquisition or earn one credit (if it is an excess or early AFV acquisition).

6. Alternative Fuel Infrastructure

EISA section 133 provides no definition of the term ''alternative fuel infrastructure,'' merely indicating that DOE should allocate credit for ''investment in qualified alternative fuel infrastructure . . ., as determined by the Secretary.'' DOE proposed to base the Subpart F definition of this term on the Internal Revenue Code definition of ''qualified clean-fuel vehicle refueling property'' (26 U.S.C. 179A(d)), such that ''alternative fuel infrastructure'' would mean one or more alterative fueling stations or one or more charging or battery exchange stations for EISA section 133-specified electric drive vehicles.

Two organizations, APGA and NGV America, commented on the proposed definition of ''alternative fuel infrastructure.'' Both expressed their support for it. DOE is finalizing the definition in 10 CFR 490.501, albeit with one minor revision to ensure that stations for NEVs are encompassed within the definition.

7. Alternative Fuel Non-Road Equipment

EISA section 133 also provides no definition of the term ''alternative fuel nonroad equipment.'' Congress simply instructed DOE to allocate credit for ''investment in qualified alternative fuel . . . nonroad equipment, as determined by the Secretary.'' DOE proposed to consider as eligible for credit only non-road equipment that is mobile, such as mobile cargo and material handling equipment (e.g., forklifts) and mobile farm, landscaping, or construction equipment (e.g., riding lawnmowers, tractors, bulldozers, backhoes, front-end loaders, rollers/compactors). Consistent with the Program's focus on vehicle acquisitions, DOE explained that stationary non-road equipment would not qualify.

[19] As discussed in Part III.B.8 below, DOE is adding medium- or heavy-duty FCEVs to the definition of ''emerging technology.''

[20] DOE reiterates that it expects all PHEVs to have a battery capacity of at least four kWh, because that is the minimum battery capacity needed for a vehicle to qualify for the Federal tax credit for new qualified plug-in electric drive motor vehicles. *See* 26 U.S.C. 30D(d)(1)(F)(i).

DOE received three comments on the proposed definition of ''alternative fuel non-road equipment.'' All three commenters (APGA, FP&L, and NGV America) supported the proposed definition. DOE is finalizing it in 10 CFR 490.501. As explained in Part III.C.3.b below, a fleet seeking credit for its investment in such equipment will have to certify that the equipment is being operated on alternative fuel, within the constraints of best practices or seasonal fuel availability. In addition, DOE clarifies today that to be considered mobile, the non-road equipment must be self-propelled. Thus, a generator that is portable by virtue of its placement on a towing skid or trailer does not qualify as alternative fuel non-road equipment notwithstanding its operation on biodiesel. Similarly, a walk-behind lawnmower, even though powered by alternative fuel, is not alternative fuel non-road equipment.

8. Emerging Technology

As with ''alternative fuel infrastructure'' and ''alternative fuel nonroad equipment,'' EISA section 133 does not provide a definition of the term ''emerging technology,'' although the statute indicates that such technology must ''relat[e] to'' any of the electric drive vehicles that Congress described earlier in section 133. Based on its experience in deploying advanced vehicle technologies, DOE proposed to interpret ''emerging technology'' to mean pre-production or pre-commercially-available vehicles of the types defined and described in section 133. DOE expressed its belief that once these vehicle technologies reach the point of being mass produced or commercially available and thus are beyond the stage of demonstration or initial data collection, the provision of any investment credit under section 508 of EPAct 1992, as amended, would be inappropriate inasmuch as acquisition credit would then be warranted.

NGV America supported the proposed focus on pre-production or pre-commercially available vehicles, but argued for an expansion of the definition's coverage to include pre-production or pre-commercially available natural gas vehicles, thereby enabling emerging technology investment credit for these vehicles as well. DOE disagrees with such an expansion, and reiterates that Congress made clear in EISA section 133 that emerging technology must ''relat[e] to'' one of the enumerated electric drive vehicles. DOE does not have the statutory authority to expand the definition's reach to any other vehicle types.

EEI contended that the term ''emerging technology'' should not be restricted to pre-production or pre-commercially available vehicles, and should encompass production or commercially available versions of the electric drive vehicles. EEI also stated that NEVs do not further the electric drive vehicle industry's technological advancement, and for that reason should not be among the vehicle types identified as emerging technology. DOE disagrees with both of these positions. Regarding production (including limited production) or commercially available versions of the electric drive vehicles, DOE reiterates that credit for their acquisition will be provided under the vehicle-specific credit provisions of this final rule (Part III.C.2 below). EEI's suggested approach would effectively provide double credit for commercially available vehicles—credit for their acquisition as well as investment credit. DOE believes this would be excessive, and notes that it proposed, and today is finalizing, that a covered fleet cannot earn duplicate credits for multiple reasons stemming from the same vehicle acquisition. Instead, the fleet must choose whether to seek credit at the applicable level for the vehicle's acquisition or under the emerging technology investment crediting provisions. With respect to NEVs, because they are one of the vehicles that Congress described in section 133, DOE maintains that they, too, must be identified in the definition.

DOE is making one substantive change to the definition of ''emerging technology'' that it proposed. DOE is adding the term ''medium- or heavy-duty fuel cell electric vehicle'' to the vehicles identified in the definition, to make clear that a pre-production or pre-commercially available version of a medium- or heavy-duty FCEV, like the other listed vehicles (i.e., HEVs, medium- or heavy-duty electric vehicles, NEVs, plug-in electric drive vehicles, and light duty FCEVs), is eligible for emerging technology investment credit.

C. Allocation of Credit

1. General Basis for Allocations

Because the AFTP and Title V of EPAct 1992 are designed to encourage the replacement of petroleum fuels with non-petroleum fuels through covered fleets' acquisition and use of AFVs, DOE proposed to allocate credit to those EISA section 133-identified electric drive vehicles that do not already qualify as AFVs (e.g., HEVs equipped with a petroleum-fueled engine) based on a yardstick of petroleum displacement, rather than simply treating the vehicles as the equivalent of AFVs. Non-AFVs, DOE posited, should receive partial rather than full credit because they do not have as significant an effect on the potential for petroleum replacement as AFVs. For example, even if a non-AFV HEV achieves twice the efficiency of a comparable non-hybrid vehicle, the non-AFV HEV only reduces petroleum consumption by one half, whereas an AFV operated solely on alternative fuel reduces petroleum consumption in full. For fleets wanting to make use of higher efficiency vehicles and other technologies, the AFTP's Alternative Compliance option provides a flexible means by which to achieve compliance with the Program.

In accordance with section 133, DOE also proposed to allocate credits for covered fleets' investments in qualified alternative fuel infrastructure, qualified alternative fuel non-road equipment, and relevant emerging technologies, with 1 credit to be earned for every $25,000 invested. Within each investment category, DOE proposed a 5-credit cap on the number of credits that could be earned in a single model year, although for the alternative fuel infrastructure category, DOE proposed a 10-credit cap for infrastructure that is publicly accessible. DOE explained that the credit caps would help limit the degree to which the AFTP's existing surplus of banked credits (see Part III.D below) grows in the future.

FP&L suggested that in allocating credit under section 133, DOE should place additional emphasis on the extent to which a particular covered fleet has demonstrated its support for the EPAct 1992 objective of replacing petroleum with replacement fuels to the ''maximum extent practicable.'' [21] While DOE believes that such an approach could further encourage the acquisition of AFVs and enhanced use of alternative fuels, thereby fostering an expansion of alternative fuel infrastructure, DOE maintains that its allocation of credit must be done in an equitable and even-handed manner, applied consistently across covered fleets. This necessarily means that the same vehicle acquisition or the same level of investment must yield the same number of credits for different fleets. In DOE's view, allocating unequal levels of credit to fleets that acquired the same vehicle or invested the same amount would be unfair. Equally important, Congress, through section 508 of EPAct 1992 as originally enacted and as amended by EISA section 133, has not authorized DOE to factor into the credit allocation

[21] 42 U.S.C. 13252(b).

process a fleet's ''support'' for petroleum replacement.

2. Electric Drive Vehicles

EISA specifies several types of vehicle technologies for which DOE must determine the amount of credit each is to be allocated under the AFTP credit program. These include HEVs, plug-in electric drive vehicles, FCEVs, NEVs, and medium- and heavy-duty electric vehicles. As indicated above and as described in detail in the NOPR, some versions of these vehicle types may be considered AFVs under the Program, and thus no allocation of credit under EISA section 133 is required. In this section, DOE explains the credit allocations for non-AFV electric drive vehicles that are being finalized in this action.

Several commenters provided comments that applied to more than one electric drive vehicle category, which will be reviewed prior to category-specific comments. NGV America indicated that it was largely supportive of DOE's proposal of partial credits for non-AFV electric drive vehicles ''based on the fact that none of the vehicles at issue have the potential to displace as much petroleum as an AFV that operates on alternative fuel.''

EDTA suggested that DOE provide additional credit for the acquisition of electric drive vehicle types in the form of an ''emerging technology premium.'' Under EDTA's approach, there would be additional credit provided for ''new, limited, or low production'' electric drive vehicles, ranging in value from one to five credits per acquisition. This premium would be applicable to all categories of electric drive vehicles, including those that qualify as AFVs, as well as those that do not, and would be available for each electric drive vehicle until some DOE-designated threshold of penetration in covered fleets was achieved. This premium also would be separate and distinct from the credits allocated to investments in emerging technologies (Part III.C.3.c. below). EEI similarly suggested additional credit for electric drive vehicles that qualify as ''emerging technologies,'' ranging from a 2.5 multiplier for light duty vehicles to a 5.0 multiplier for medium- and heavy-duty vehicles. EEI also offered that such additional credits should sunset once certain levels of penetration are reached:

- ''Light-duty—50,000 cumulative eligible emerging technology vehicles were acquired in eligible fleets (or 20,000 for a single technology such as HEVs, PHEVs, FCVs, or BEVs).
- Medium and heavy duty—25,000 cumulative eligible emerging technology vehicles in eligible fleets (or 10,000 for a single technology as above).''

DOE appreciates the EEI and EDTA suggestions as means by which to encourage and improve the market penetration of new technologies. Nonetheless, DOE rejects the suggestions for several reasons. First, the approaches EEI and EDTA offer do not provide certainty to covered fleets. For example, it may be unclear whether a vehicle acquired would still qualify for the emerging technology premium due to sudden changes in market penetration. If a threshold were reached during the model year, the level of credit available would hinge on when during the model year a fleet submitted its supporting documentation (i.e., before or after the threshold was reached). Second, EDTA did not suggest what might be considered an appropriate penetration level. While EEI did offer possible sunset levels, given that the entire Program typically results in the acquisition of roughly 10,000–14,000 AFVs per model year, the levels EEI proposed could easily be equal to as many as five years' worth of acquisitions by the entire Program. Without further supporting justification, DOE believes that such a level of production cannot still be considered ''emerging technology.'' Third, the approach EDTA and EEI proposed would only apply to electric drive vehicles, and not to other types of AFVs. Applying this premium only to electric drive vehicles would effectively discriminate against other AFV types. In fact, given that EDTA and EEI would apply this premium to all electric drive vehicle categories, this could result in far greater credit being provided for a non-AFV (such as an emerging technology hybrid electric vehicle) than an AFV, which would, as described in this preamble, still be seen as providing a greater potential for petroleum reduction. Therefore, DOE declines to incorporate an ''emerging technology premium'' into its credit allocation method for electric drive vehicles.

a. Hybrid Electric Vehicles

Currently available light duty HEVs have a conventional gasoline engine and an electric motor that provides a boost or otherwise provides only some motive force. As indicated in the NOPR, because they are neither dedicated vehicles nor dual fueled vehicles, they have not previously qualified for AFV treatment (or excess acquisition credit) under the AFTP. Current HEVs simply offer higher efficiency than conventionally-fueled vehicles, as represented by mile per gallon (mpg) ratings.

Under the Alternative Compliance option, fleets can comply by using HEVs to help meet their petroleum reduction requirement. For more information on HEVs and Alternative Compliance, see *http://www1.eere.energy.gov/vehiclesandfuels/epact/pdfs/alt_compliance_guide.pdf* or the final rule for Alternative Compliance at 72 FR 12958 (March 20, 2007).

DOE proposed that HEVs that are not AFVs because they lack an alternative fuel-capable engine would receive ½ credit, rather than the full credit that dedicated and dual fueled vehicles already receive.[22] DOE's proposal to allocate ½ credit was based on the petroleum replacement potential of these vehicles, as well as their energy efficiency (i.e., fuel economy), which effectively dictates their petroleum replacement potential.

DOE assumed the same annual usage (i.e., miles driven per year) for an HEV and a conventional vehicle. For the vast majority of HEVs (other than PHEVs, as described below), the fuel economy improvement that each HEV model achieves versus a conventional vehicle model is limited. DOE examined the efficiency gains and found that most HEVs generate efficiency gains that would suggest a credit value on the order of ¼ credit or less in some instances. Some HEV models, in fact, achieve fuel economy barely greater than conventional internal combustion engine versions of the same model, while other HEV models actually achieve lower fuel economy than the most fuel efficient models in the same size class.

Still other HEVs, however, do achieve a considerably higher efficiency than the most fuel efficient conventional models in the same EPA size class. As DOE explained in the NOPR, for MY 2011, the most notable of these HEVs were the 2011 Toyota Prius, Mercury Milan Hybrid FWD, and Ford Fusion Hybrid FWD, which were the most fuel efficient midsize HEVs on the market, and demonstrated an average 39% improvement in fuel economy and a 25% reduction in fuel use. Based on this

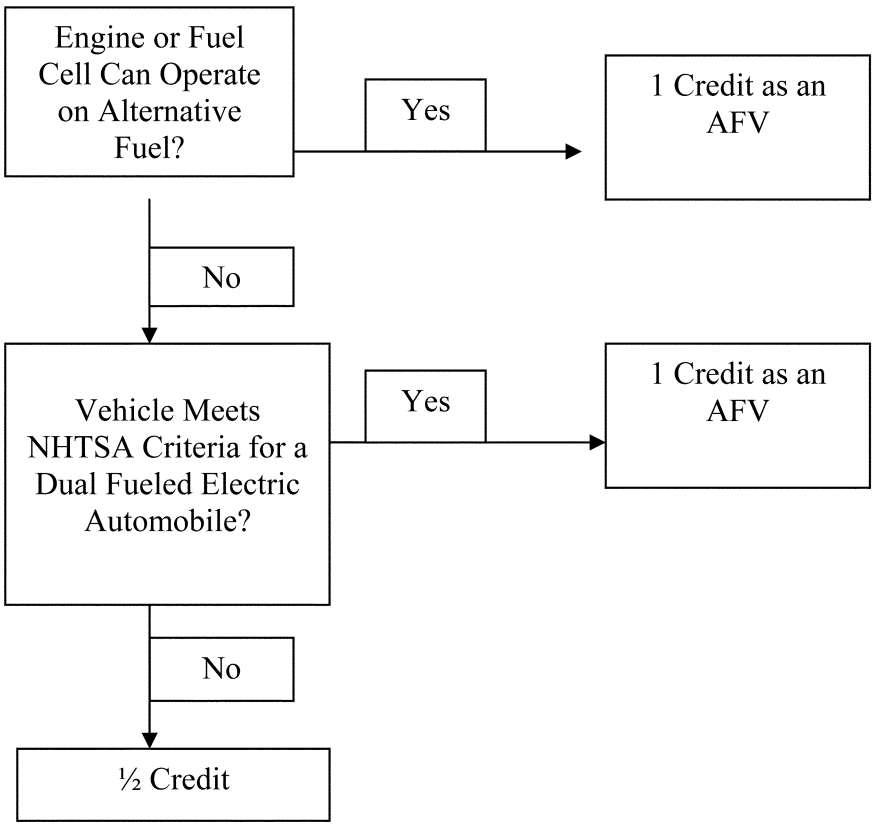
[22] Note that in order to give meaning to the EISA section 133 amendments, covered fleets will earn credits for light duty HEVs (and, except for medium- and heavy-duty vehicles, all of the other EISA section 133-identified electric drive vehicles) under this final rule even if they have not yet met their light duty AFV-acquisition requirements. While each light duty HEV purchase would increase the fleet's acquisition requirements as a non-excluded LDV purchase at a faster rate than it would offset such requirements, the rule would provide the concomitant benefit of providing immediately available credits. If the rule were to only allow the allocation of credits once the AFV-acquisition requirements had been met, an HEV purchase would afford no compliance benefit.

information, DOE proposed to allocate ½ credit to all HEVs. DOE today is finalizing this allocation level.

As indicated in the NOPR, DOE specifically considered proposing a higher credit value for those HEVs that provide significant efficiency gains and lower values for those HEVs with comparatively smaller efficiency gains. In the end, though, DOE believed that a single credit value for all HEVs would be most manageable from an administrative standpoint and represents an approximation of the petroleum reduction of the average hybrid electric vehicle. DOE also concluded that selecting a single value provides greater clarity and certainty for fleets when it comes to determining the credit value for a given hybrid vehicle, easing acquisition and compliance planning. Although the petroleum displacement achieved by the most efficient midsize HEVs, when compared to the most efficient conventional midsize cars, suggests a credit value closer to ⅓, to provide an incentive for fleets to acquire HEVs, DOE continues to believe that ½ credit for all non-AFV HEVs is appropriate given the AFTP's goal of having fleets serve both as launching pads for new technologies and as entities seeking to achieve petroleum consumption reductions. In addition, it is anticipated that as hybrid technologies develop, the efficiency of these vehicles should increase.

Figure 1 below provides the credit allocation determination process for HEVs (as well as for PHEVs and FCEVs). It is the same credit allocation determination figure that DOE provided in the NOPR.

Figure 1. Credit Allocation Determination for HEVs, PHEVs, and FCEVs



NGV America recommended that non-AFV HEVs should be required to achieve at least a 30% fuel economy improvement over a comparable conventional vehicle in order to receive the ½ credit. Similarly, EEI suggested that non-AFV HEVs be required to achieve some minimum level of efficiency improvement, though it did not specify the percentage improvement over the baseline that should be required. EEI, as well as FP&L, suggested additional modifications to the credit allocations for HEVs, however, they both indicated that covered fleets acquiring non-AFV HEVs should be allowed to claim the ½ credit or ''a higher credit on a sliding scale, based on the rated mile per gallon efficiency (or field measured efficiency),'' with a fleet requesting such higher credit needing to submit documentation for approval by DOE.

Although each of these commenters clearly focused on the petroleum reduction potential of HEVs, DOE must reject these proposals. While FP&L focused on DOE's statements in the NOPR concerning ensuring that the allocation process be ''manageable from an administrative standpoint,'' DOE notes that this was only one of several reasons why DOE is taking this approach. For example, fleets must have some level of certainty concerning the value (credits) of a given acquisition. Also, an award of credits must be fair and equitable across all fleets. The comments, however, would create a relatively uncertain and uneven basis for the award of credits. For example, suggestions of the commenters would

make it such that different fleets could receive different levels of credit for the acquisition of the same vehicle model, depending on model year, because the efficiency of the vehicle versus some conventional baseline may vary from year to year. Further, the approaches offered would create additional administrative burden on reporting fleets and would create a relatively complex framework for earning credits. As a result, DOE is unconvinced that such a framework would be fair, equitable, and worth the additional burden on covered fleets.

Therefore, DOE is finalizing the credit allocation for HEVs that are not AFVs at ½ credit per vehicle.

b. Plug-In Electric Drive Vehicles

As explained above, there are two primary forms of plug-in electric drive vehicles: (1) Battery EVs; and (2) PHEVs, assuming they have a minimum battery capacity of 4 kWh. Battery electric vehicles are already entitled to one credit, as they qualify as dedicated vehicles and, hence, AFVs under EPAct 1992 section 301. Section 133 more directly affects PHEVs. Because all PHEVs are anticipated to have at least a 4 kWh battery, they would qualify as plug-in electric drive vehicles under section 133. Like HEVs, PHEVs would most likely operate on both electricity and either conventional petroleum fuel or alternative fuel. PHEVs differ from other HEVs, however, in that they are designed to operate in part on electric power obtained from off-board sources and typically have more electrical storage capacity onboard. For example, a PHEV20 would have a 20-mile electric-only range, and would be allocated one full credit, assuming it could meet the NHTSA criteria for a dual fueled electric automobile. PHEVs may also hold special promise to enhance fuel efficiency gains over conventional vehicles and enable the use of renewable energy in either centralized or distributed power generating systems. Thus, PHEVs could contribute substantially both to reducing petroleum use and reducing the associated generation of greenhouse gases.

PHEVs that do not already qualify as AFVs, because they are not equipped with an engine that is capable of operating (or one that operates solely) on alternative fuel, and do not meet the NHTSA criteria for a dual fueled electric automobile, were proposed to be treated in the same manner as HEVs, meaning their acquisition by a covered fleet would result in ½ credit.

DOE's rationale for allocating to non-AFV PHEVs the same credit value that would be allocated to non-AFV HEVs, ½ credit, was that both sets of vehicles are non-AFVs and, further, efficiency gains offered by the former vehicles versus the latter vehicles are relatively small and do not justify disparate treatment. DOE today is finalizing this allocation level.

In addition to commercially available PHEVs, conversion options are offered by several organizations. To qualify for credit under the AFTP, any such conversion must be completed within four months of the vehicle's acquisition under 10 CFR 490.202(c) for States and 10 CFR 490.305(c) for alternative fuel providers.

Figure 1 above depicts the credit allocation determination process for PHEVs.

As they had for HEVs, both EEI and FP&L proposed that fleets be allowed to apply for greater than ½ credit, based on the vehicle's demonstrated fuel efficiency improvement, with EEI also proposing that fleets have the option of requesting greater credit based on the ratio of the all-electric range to the expected average daily driving range. NEMA supported the ½ credit allocation, based on the battery capacities that are currently commercially available. NEMA did, however, suggest that as the all-electric range grows for these vehicles, greater credit (up to one credit per vehicle) be awarded, based on higher ranges specified by DOE. This approach, one based on the credit level being ''a function of the expected range in miles of the battery,'' NEMA stated, would help ''encourage rapid innovation of vehicle technologies.''

SAFE proposed that all non-AFV PHEVs be allocated one credit ''either by eliminating the range requirement for dual fuel vehicles in which one of the fuels is electricity [i.e., the NHTSA minimum drive range criteria], or by treating them as PHEVs but still giving them a full credit.'' SAFE argued that these vehicles should earn one credit ''since the average flexible fuel vehicle—with a lower 'alternative fuel factor' [the portion of a vehicle's energy or operation that comes from non-petroleum fuels]—receives one credit.'' SAFE also concluded that DOE's reliance on the NHTSA criteria ''is inappropriate given the purpose of [the AFTP]'' and ''shortchanges PHEVs that may not operate in a pure electric mode.'' SAFE suggested that credit should be ''based on the presence of a drive train designed to operate on an alternative fuel and the fuel savings provided by the vehicle, not its minimum all-electric range or any other factors.''

In its comments, EDTA indicated that vehicles that achieve the NHTSA minimum driving range should be entitled to one credit, as DOE had explained. EDTA went further, however, recommending that DOE also use ''a credit mechanism that recognizes incremental benefits of electrification in the non-AFV PHEVs with varying ranges, but less than [the one credit AFV PHEVs receive].'' Under EDTA's proposal, non-AFV PHEVs would be eligible for some level of credit between ½ and 1.

DOE rejects the above arguments supporting greater credit for non-AFV PHEVs. First, as previously stated in Parts I.A, III.C.1, and elsewhere in this preamble, DOE is using petroleum displacement potential, measured against AFVs operating on alternative fuel, as the benchmark for allocating credit. PHEVs that do not meet the NHTSA minimum driving range criteria are simply not expected to achieve petroleum displacement close to what AFVs achieve when operating on alternative fuel. Second, proposals to allow fleets to apply for greater credit than ½ depending on a number of varying factors would result in uncertainty for covered fleets (i.e., the level of credit for a given vehicle could not always be clearly ascertained by a fleet at the time of vehicle acquisition). In addition, the commenters' proposals would require fleets to submit considerably more documentation and would require that DOE undertake case-by-case determinations for potentially every vehicle in each annual report submitted. Third, and most importantly, DOE cannot alter the minimum driving range criteria for dual fueled electric automobiles, which were established by NHTSA pursuant to statute. As explained in Part III.A.5, Congress defined the term ''dual fueled vehicle'' in section 301(8) of EPAct 1992 (42 U.S.C. 13211(8)), using a definition that incorporates the EPCA definition of a dual fueled automobile. This definition, in turn, specifically includes the minimum driving range requirement for dual fueled passenger automobiles (49 U.S.C. 32901(a)(9)(D)).

In sum, DOE is finalizing the credit level for non-AFV light duty PHEVs at ½ credit per vehicle.

c. Fuel Cell Electric Vehicles

FCEVs with fuel cells that can be powered by hydrogen or some other alternative fuel already qualify as AFVs and thus already are eligible for one credit under the AFTP. To DOE's knowledge, the majority of FCEVs under

development are fueled by hydrogen,[23] but DOE cannot dismiss the possibility of a non-alternative fuel-based FCEV one day reaching the market. As a result, DOE is required by EISA section 133 to establish a credit value for non-AFV FCEVs.

In the NOPR, DOE proposed to treat FCEVs that are neither dedicated vehicles nor dual fueled vehicles in the same manner as non-AFV HEVs and PHEVs and allocate them ½ credit. This determination was based on the fact that current AFV FCEVs typically offer significant efficiency gains over conventional vehicles, but non-AFV FCEVs, while offering similar efficiency gains, would not displace as much petroleum as an AFV operating solely on alternative fuel. DOE solicited comments on this proposed allocation level.

Both EEI and EDTA again suggested requiring a minimum efficiency level in order to receive ½ credit, plus allowing additional credit on a sliding scale based on efficiency level. EDTA also proposed applying an emerging technology premium to non-AFV FCEVs. For the same reasons as those identified above in Parts III.C.2 and III.C.2.b, DOE is rejecting these requests. In addition, DOE notes that FCEVs are not anticipated to be commercially-available for several more years. Until that time, fleets are free to apply for credit for their investments in emerging technologies, as described under Part III.C.3.c. below. Therefore, DOE is finalizing the credit for non-AFV FCEVs at ½ credit per vehicle, as proposed in the NOPR.

The credit allocation determination process for FCEVs is depicted in Figure 1 above.

d. Neighborhood Electric Vehicles

Most commonly-available NEVs have been produced as a type of low-speed vehicle, limited to a top speed of between 20 and 25 mph. NEVs are typically used for driving short distances on low-speed streets or on campus-like sites (such as schools or power plants). NEVs functionally substitute for only some of the activities for which conventional vehicles are used, and in part serve as substitutes for walking or bicycling.[24] In many areas, NEVs are not able to be licensed for use on public roads. Even in the jurisdictions where they may be licensed, they typically are limited to streets with speed limits of 35 mph or less and can never be driven on highways. To date, the AFTP has treated NEVs, which do not fall under the Clean Air Act section 216(2) definition of ''motor vehicles'' as interpreted by EPA,[25] as ineligible for credit as AFVs. In a 2001 study, DOE found that NEVs are driven an average of 3,410 miles per year.[26] This compares to the average annual use of light duty household vehicles in the U.S. in 2009 of 11,300 miles per year.[27] For light duty business fleet vehicles, however, average annual use in 2010 ranged from 24,384 to 29,616 miles.[28] Therefore, the use of NEVs substitutes for a small percentage of conventional vehicles' applications.

A comparison of the data above on average annual miles driven by NEVs and average annual miles driven by business fleets suggests that a credit of no more than ⅛ may be warranted. DOE, however, proposed allocating ¼ (0.25) credit for each NEV acquired, in an effort to provide a general incentive for covered fleets to eliminate petroleum consumption through the acquisition of these vehicles notwithstanding their limited fuel replacement value. The ¼ credit level may appear small, but the actual resulting value to the acquiring fleet is larger than the ¼ allocated. Unlike the acquisition of a light duty AFV, the acquisition of an NEV does not increase the vehicle count that is the basis for calculating the AFV-acquisition requirements. The acquisition of a light duty AFV would generate a requirement for the acquisition of another fractional AFV, meaning the net credit result stemming from the acquisition of the initial light duty AFV is either 0.25 for State fleets (1 minus 0.75) or 0.1 for alternative fuel provider fleets (1 minus 0.9) of a credit. By comparison, an NEV acquisition results in a net surplus of ¼ credit.[29]

In its comments, EEI suggested that the appropriate credit level for the acquisition of an NEV should be ½ rather than ¼, to be more reflective of the fact that many fleets replace conventional vehicles with NEVs. Conversely, EDTA was supportive of the ¼ credit level ''based upon the multiple benefits of NEVs' zero-petroleum operation and their utility to covered fleets.''

DOE is not persuaded that NEVs warrant a credit level greater than ¼, particularly in light of the benefit provided in terms of compliance as discussed above, and is finalizing the ¼ credit allocation that it proposed.

e. Medium- and Heavy-Duty Electric Vehicles

i. General

''Medium- or heavy-duty electric vehicles,'' as that term is defined in this final rule (see Part III.B.3 above), are now commercially available in the U.S., both as original equipment manufacturer vehicles (e.g., the Smith Electric Newton) and as after-market converted vehicles.[30] Conventional medium- and heavy-duty vehicles typically use several times the amount of petroleum fuel that conventional LDVs use, so the deployment of higher efficiency or alternative fuel versions of these vehicles contribute significantly to a reduction in our nation's overall petroleum use.

Under the existing AFTP, the acquisition of a medium- or heavy-duty AFV yields one credit, but only after the fleet has met its light duty AFV-acquisition requirement, and DOE proposed to maintain this approach in the NOPR. As with NEVs, discussed above, the benefit to covered fleets of such purchases in comparison to an LDV acquisition includes not increasing a fleet's LDV total for purposes of calculating compliance requirements.

[23] *See http://www.fueleconomy.gov/feg/fcv_sbs.shtml* (Honda and Mercedes-Benz); *http://www.fueleconomy.gov/feg/fcv_links.shtml* (various manufacturers); *http://www.hyundaiusa.com/about-hyundai/news/Corporate_Tucson_ix_FCEV_Release-20110214.aspx* (Hyundai); *http://www.toyota.com/about/environment/innovation/advanced_vehicle_technology/index.html* (Toyota).

[24] A 2001 DOE study showed that, of the 348 fleet NEVs studied, only 18 NEVs had been acquired to replace previous on-road vehicles, though some of the other NEVs might also have been acquired in lieu of new on-road vehicles (i.e., fleet expansion). The 348 NEVs were driven an average of 9 miles per day. *See* Idaho National Engineering and Environmental Laboratory, *Field Operations Program—Neighborhood Electric Vehicle Fleet Use* (July 2001) (*INEEL Study*), at 4, available at *http://avt.inel.gov/pdf/nev/nevstudy.pdf.*

[25] Section 301(13) of EPAct 1992 defines ''motor vehicle'' to have ''the meaning given such term under section 216(2) of the Clean Air Act (42 U.S.C. 7550(2)).'' In interpreting section 216(2), which states that a ''motor vehicle'' is ''any self-propelled vehicle designed for transporting persons or property on a street or highway,'' DOE defers to EPA, which has found that ''[a] vehicle shall be deemed not a motor vehicle [and excluded from the Clean Air Act if it] cannot exceed a maximum speed of 25 miles per hour over level, paved surfaces . . . .'' 40 CFR 85.1703(a). DOE has therefore historically chosen not to treat NEVs as motor vehicles.

[26] *INEEL Study* at 4.

[27] *See* DOE, *Transportation Energy Data Book: Edition 31* (July 2012), at Table 8.10.

[28] *Id.* at Table 7.3.

[29] Under the existing AFTP, neither AFV-acquisition requirements nor AFV credits are addressed in amounts below one, but fleet aggregates implicitly involve fractional credits for individual acquisitions.

[30] *See, e.g., http://www.viamotors.com/news/press-releases/pge-via-motors-showcase-a-first-for-utilities-the-extended-range-electric-pickup-truck/; http://www.greencarreports.com/news/1073783_ford-f-750-plug-in-hybrid-work-truck-not-your-little-leaf-sonny#ixzz1obqAOAXH.*

ii. Hybrid Electric and Plug-In Hybrid Electric Vehicles

As discussed earlier in this preamble, medium- and heavy-duty battery electric vehicles already qualify as AFVs and thus already are entitled to one credit under the AFTP. Similarly, medium- and heavy-duty HEVs and PHEVs that are equipped with an engine that can operate (or that operates solely) on a liquid or gaseous alternative fuel (e.g., E85 or CNG) already qualify as AFVs eligible for one credit.[31] In the NOPR, DOE therefore interpreted EISA section 133 as calling for the allocation of credits to ''medium- or heavy-duty electric vehicles'' that do not already qualify as AFVs (i.e., non-AFV HEVs and PHEVs).

As explained in the NOPR, DOE considered two options for medium- and heavy-duty non-AFV HEVs and PHEVs: (1) Allocate one credit, accounting for the fact that conventional medium- and heavy-duty vehicles consume more fuel than do conventional LDVs, and thus offer a greater potential impact on petroleum reduction compared to an LDV using similar technology; or (2) allocate ½ credit, as such a ''medium- or heavy-duty electric vehicle'' still is not an AFV and therefore does not displace as much petroleum as a medium- or heavy-duty AFV operating on alternative fuel. DOE proposed the latter credit level in the NOPR.

DOE received a number of comments on its proposed allocation for medium- and heavy-duty non-AFV HEVs and PHEVs. Eaton sought clarification that medium- and heavy-duty hydraulic hybrid vehicles are entitled to credit, while EDTA and EEI, in addition to Eaton, took issue with the proposed electric drivetrain limitation. DOE disagrees with these comments, and emphasizes that in EISA section 133, Congress expressly referred to ''electric drive'' vehicles. In view of this, DOE concludes that hydraulic hybrid vehicles with a gross vehicle weight rating of more than 8,500 pounds do not qualify for credit as ''medium or heavy-duty electric vehicles,'' and that a vehicle must have an electric drivetrain for acquisition credit to be warranted. Even though DOE is excluding hydraulic hybrid and electric bucket system technologies from credit under this final rule, fleets are reminded that medium- and heavy-duty vehicles with these technologies may be used to demonstrate petroleum fuel use reductions under the AFTP's Alternative Compliance option.

Eaton and EDTA also thought that ''medium- or heavy-duty electric vehicles'' that are not AFVs should be allocated a minimum of one credit per vehicle, in recognition of the greater petroleum use and emission reductions that accrue from these vehicles. NEMA supported ½ credit for medium- and heavy-duty PHEVs with currently available battery capacities, but urged that incrementally greater credit be allocated as the electric ranges of the vehicles increases. Finally, EEI questioned how DOE would determine whether a medium- or heavy-duty PHEV is an AFV already entitled to one credit or a non-AFV entitled to ½ credit.

After considering the comments, DOE is finalizing the proposed allocation of ½ credit for medium- and heavy-duty non-AFV HEVs. DOE acknowledges the potentially greater petroleum reductions stemming from these vehicles, but reiterates that the vehicles do not qualify as AFVs.

For medium- and heavy-duty PHEVs, although DOE proposed to allocate ½ credit under EISA section 133 for fleet acquisitions of these vehicles, it has now concluded that an allocation under section 133 is not warranted after all because such vehicles already qualify as AFVs and, as a result, are already entitled to one credit under the AFTP. DOE observes that NHTSA, in the Medium- and Heavy-Duty Vehicle Fuel Efficiency Program (49 CFR Part 535) that it promulgated on September 15, 2011,[32] considers medium- and heavy-duty PHEVs to be dual fueled vehicles.[33] To maintain regulatory consistency, DOE therefore deems PHEVs with a gross vehicle weight rating in excess of 8,500 pounds to be dual fueled vehicles and, consequently, AFVs for purposes of the AFTP. As such, medium- and heavy-duty PHEVs already are entitled to, and when acquired by covered fleets will be allocated one credit. An allocation under EISA section 133 is unnecessary.

In sum, while DOE proposed allocating ½ credit to medium- and heavy-duty non-AFV HEVs and PHEVs, it is finalizing this allocation under EISA section 133 for the former vehicles and acknowledging that medium- and heavy-duty PHEVs already qualify as AFVs.

DOE will allocate credit for ''medium- or heavy-duty electric vehicles,'' whether AFVs or non-AFV HEVs, only after a covered fleet has met its light duty AFV-acquisition mandate. DOE wants to maintain a level playing field for all vehicles with a gross vehicle weight rating of more than 8,500 pounds, regardless of the drive or fuel type, and believes that because the light duty AFV precondition already applies to medium- and heavy-duty AFVs, it also must apply to medium- and heavy-duty non-AFVs that will receive ½ credit under this action. A non-level playing field effectively would create an incentive for covered fleets to acquire medium- and heavy-duty non-AFV HEVs over AFVs.

NGV America and APGA urged DOE to eliminate the need for a covered fleet to meet its light duty AFV-acquisition requirement before receiving credit for the medium- and heavy-duty AFVs and non-AFVs it acquired. DOE contends that removing this requirement would be inconsistent with statutory authority and the overall statutory scheme of the Program. The AFTP vehicle acquisition requirements are set forth in EPAct 1992, section 501(a) for alternative fuel provider fleets, and section 507(o) for State fleets, respectively. These sections specify the number of AFVs that must be acquired as a percentage of ''new light duty motor vehicles'' acquired by a fleet. The only acquisition requirement under the AFTP is therefore inherently a light duty vehicle requirement. The provision for allocating credit for other than light duty vehicles appears in EPAct 1992 section 508(b), as amended. This section states that ''[t]he Secretary shall allocate a credit to a fleet or covered person that is required to acquire an alternative fueled vehicle under this subchapter, if that fleet or person acquires an alternative fueled vehicle in excess of the number that fleet or person is required to acquire . . . .'' Thus, for an acquisition under section 508(b) to be *in excess* of what is required of a fleet, the light duty acquisition target must have already been met under sections 501(a) or 507(o), as applicable. DOE continues to maintain, as it has since the inception of the AFTP, that the acquisition of a medium- or heavy-duty vehicle does not and cannot satisfy the mandate to purchase light duty AFVs imposed on a fleet by EPAct 1992.

[31] *See, e.g.,* 49 CFR 535.4 (defining, for purposes of the NHTSA Medium- and Heavy-Duty Vehicle Fuel Efficiency Program, the term ''dual fueled vehicle'').

[32] 76 FR 57106 (Sept. 15, 2011).

[33] *See* 49 CFR 535.4 (defining the term ''dual fueled vehicle'' and stating that ''a plug-in hybrid electric vehicle is considered a dual fueled vehicle''). NHTSA likewise treats medium- and heavy-duty vehicles that operate on gasoline and E85 to be duel fueled vehicles. In other words, the minimum driving range requirement set forth in 49 CFR 538.5 is inapplicable to medium- and heavy-duty vehicles.

3. Investments

a. Alternative Fuel Infrastructure

In addressing EISA section 133's requirement that DOE allocate credit for fleets' investments in alternative fuel infrastructure, DOE believes it makes sense to focus on the original objectives of the EPAct 1992 fleet programs. In general, the concept behind the programs is to use the covered centrally-fueled fleets to catalyze both manufacturer AFV offerings and refueling infrastructure, paving the way for AFV use by other fleets and, ultimately, the general public. While the statutory requirements are in terms of vehicle acquisitions, the EPAct section 502(a) goal of maximizing replacement fuel use also involves consideration of infrastructure availability. Thus, the development of alternative fuel refueling infrastructure that ultimately serves as much of the population as possible is important to achieving the overall programmatic goals.

As explained in Part III.B.6 above, DOE is defining the phrase ''alternative fuel infrastructure'' to mean one or more alternative fueling or charging/battery exchange stations, a definition expressly supported by APGA and NGV America. In allocating credit for alternative fuel infrastructure investments, DOE has determined that a covered fleet that makes a financial investment in a new alternative fueling or charging/battery exchange station will receive one credit for every $25,000 invested toward developing the infrastructure. DOE believes $25,000 per investment credit is an appropriate dollar figure inasmuch as the installation of an E85 pump and tank historically has cost roughly $25,000.[34] Moreover, as discussed in Part III.C.3.b below, the cost of a new light duty AFV, for which a covered fleet earns an AFV acquisition credit, is approximately $25,000. Because investing in alternative fuel infrastructure effectively is an alternative to acquiring light duty AFVs, DOE believes the consistent $25,000 threshold is appropriate.

NEMA supported the $25,000 figure, while EEI argued that fleets should receive alternative fuel infrastructure investment credit based on the number of stations installed, not the amount of money invested. EEI suggested one credit per private station and two credits per public station. Focusing in particular on electric vehicle charging stations, EDTA and NEMA recommended that fractional credits be allocated for investments below the $25,000 threshold. These organizations posited that if covered fleets do not receive any credit for alternative fuel infrastructure investments under $25,000, they will not be adequately encouraged to invest in charging stations.

In DOE's view, an allocation approach based on the level of financial investment is inherently more balanced in that it rewards greater financial expenditures with a higher number of credits. Installation of an alternative fueling station that costs $100,000 will yield the investing fleet 4 credits, whereas under EEI's suggested approach the fleet would earn only 1 credit for a private station or 2 credits for a publicly accessible station. DOE reiterates its belief that the appropriate dollar figure for purposes of allocating credit is an amount based on the approximate cost of installing an E85 pump and tank or acquiring a new light duty AFV. DOE also maintains that establishing the $25,000 value as a base level below which no credit may be earned is equally appropriate, given that this value is sufficiently high to demonstrate a significant investment in alternative fuel infrastructure rather than simply serve as a reward to fleets for actions they otherwise planned to take. In addition, as set forth in 10 CFR 490.504(g), DOE notes that fleets may aggregate the monetary sums invested in a particular model year to reach an applicable investment credit threshold.

After reviewing the comments received on the allocation of fractional credits for investments, DOE has concluded that it will not allocate fractional credits for any of the investment credits. The AFTP is based on the acquisition of individual vehicles (LDVs and AFVs), and correspondingly, the AFTP's accounting and annual reporting mechanisms treat the vehicles as individual units. In the area of investments, DOE has identified a specific dollar amount, $25,000, as the basis on which to measure a unit for credit equivalency purposes. The approach set forth in the proposed rule and finalized today is based on this dollar amount rather than an absolute measurement of every dollar invested. DOE will record the investment of an amount equal to a unit ($25,000), not any discrete amount of dollars. In addition, DOE notes that if it were to track each dollar invested and award fractional credits, the burden of accounting and data collection on both reporting entities and DOE would be greatly increased.

DOE proposed to limit the number of credits that may be earned in a single model year to a maximum of 5 credits per fleet if the infrastructure is private, and a maximum of 10 credits per fleet if the infrastructure is publicly accessible. APGA and NGV America expressed support for the establishment of a higher credit maximum for public alternative fuel infrastructure. DOE is maintaining the credit distinction proposed in the NOPR. It encourages the building of alternative fuel infrastructure to which the general public has access, as such accessibility expands the alternative fuel refueling options for the broadest range of vehicles. For a fleet that installs both public and private infrastructure in a given model year, a 10-credit maximum will apply, with up to 10 credits being offered for public stations, and 5 credits for private stations.[35]

EDTA and EEI requested that DOE raise the annual per fleet cap to 25 credits, while NEMA argued that an annual cap on alternative fuel infrastructure investment credits is unjustified. DOE understands that fleets' needs and opportunities are subject to variation, but stresses that it has a responsibility to balance competing interests: enable fleets to earn credits and at the same time ensure the proper functioning of the AFTP's credit system. As explained in Part III.D.2 below, the Program currently has approximately 70,000 banked credits in the system and DOE wishes to avoid the devaluation of credits currently in fleets' accounts. DOE therefore declines EDTA's and EEI's suggestion that the maximum be increased as well as NEMA's suggestion to eliminate the annual cap.

To be eligible for credit, the alternative fuel infrastructure investment must have been made (i.e., the infrastructure must have been paid for) by the fleet requesting credit. Infrastructure installed and paid for or simply paid for by entities or organizations that are not subject to the AFTP is ineligible for investment credit. DOE clarifies, however, that a covered fleet may earn credit for investments that it makes in alternative fuel infrastructure owned or operated by another entity, and that regardless of the type of alternative fuel offered, all dollar amounts associated with the installation

[34] *See* DOE's *Alternative Fuels Data Center* Web site at *http://www.afdc.energy.gov/afdc/fuels/ethanol_infrastructure.html*.

[35] For example, a fleet that invests $250,000 in one or more public stations will earn 10 credits, while a fleet that invests $125,000 in one or more private stations will earn 5 credits. In the event a fleet invests $125,000 in public stations and an additional $125,000 in private stations, it will be entitled to 5 and 5 credits, respectively, for a total of 10 credits. Finally, if a fleet invests $250,000 in public stations as well as $25,000 in a private station, it will be capped at 10 credits for the applicable model year.

of the infrastructure will be treated equally.

To allocate infrastructure investment credit to a particular fleet, DOE will need to know how much money was expended, the period or model year during which the investment was made, and on exactly what infrastructure the investment was spent. Covered fleets must seek credit through the credit activity reporting mechanism (10 CFR 490.508) and clearly identify the alternative fuel type, specific location, date of initial operation, and level of accessibility of the station. Importantly, credit may be sought only for the model year in which the station begins operating, and each fleet will be limited to one award of credits per site, per model year. For example, if a covered fleet's infrastructure investment spans more than one year, with the fleet having invested $12,500 in a new AFV fueling station during one model year and then an additional $12,500 in that station during the following model year, the fleet is entitled to 1 investment credit in the second model year. If the fleet neglects to seek credit during that second model year for its $25,000 total investment but instead applies for the single credit in a later year, DOE will allocate no credit. Similarly, if the fleet applies for credit in its credit activity report for the first model year, DOE will reject the request on the grounds that the alternative fuel infrastructure did not become operational during that year.

Credits will be allocated for new fueling or charging stations, or for the expansion of existing stations if additional fueling or charging capability is being added (such as an additional dispensing unit at an existing station), in which case the additional capability must have become operational during the model year for which credit is sought. Simply installing additional electrical outlets, however, will not qualify for investment credit.[36] Nor will credit be provided for maintenance of or improvements to existing equipment at an existing station. Fleets will have to certify the accuracy of the information provided.

b. Alternative Fuel Non-Road Equipment

As discussed in Part III.B.7, DOE is defining ''alternative fuel non-road equipment'' to include only mobile, non-road equipment that operates on alternative fuel. Stationary equipment (e.g., a generator) is ineligible for alternative fuel non-road equipment investment credit. As with alternative fuel infrastructure, investment credit will only be provided for new mobile equipment, not for maintenance of or improvements to existing mobile equipment.

DOE has decided to base the allocation of credit on the rough value represented by the average price of a new light duty AFV sold in the United States in 2010. According to the latest edition of DOE's Transportation Energy Data Book, the average price of a new LDV was $24,296 (in 2010 dollars).[37] Understanding that there is little, if any, price differential between a new LDV and a new flexible fuel vehicle, the average price of a new LDV is approximately $25,000 after conversion to 2012 dollars (using the Department of Labor's CPI Inflation Calculator). DOE believes the appropriate expenditure level for purposes of earning a credit for investment in alternative fuel non-road equipment is this amount (i.e., $25,000).

No commenters objected to this monetary value. DOE believes that $25,000 is a sufficiently high value to demonstrate a significant investment in qualified non-road equipment rather than simply serve as a reward to fleets for actions they otherwise planned to take. In addition, this amount is equivalent to the alternative fuel infrastructure investment credit under this action, providing for some level of administrative consistency.

In sum, DOE is allocating 1 credit for every $25,000 that a covered fleet invests in alternative fuel non-road equipment. Credits will be allocated in whole number values, with 1 credit allocated for each $25,000 threshold achieved, with a maximum of 5 credits per fleet in a single model year. To be eligible for credit, the investment must have been made by the requesting fleet. Investments made by organizations that are not subject to the AFTP are ineligible for credit.

Two commenters, EEI and FP&L, contended that fleets should receive credit based on the number of pieces of alternative fuel non-road equipment acquired in a model year, not the amount of money invested. DOE disagrees, and points out that section 508(b)(2)(A)(ii) of EPAct 1992, as amended by EISA section 133, directs DOE to allocate credit for covered fleets' ''investment in qualified . . . alternative fuel nonroad equipment.'' Whereas Congress specified that credit be allocated for the ''acquisition of'' electric drive vehicles, it stipulated that credit be allocated for the ''investment in'' alternative fuel non-road equipment. DOE interprets the allocation of credit for dollars invested as being based on the ''investment in'' such equipment, and therefore declines to implement the commenters' suggestion of doing so by number of pieces of equipment acquired. Under the approach DOE is taking, all alternative fuel non-road equipment will be treated equally, whereas under a per piece approach, a $25,000 piece of equipment would yield the same number of credits, one, as a $10,000 or less expensive piece of equipment.

EEI and FP&L further recommended that there be no annual cap on the number of credits a fleet can earn from its alternative fuel non-road equipment investments. Alternatively, EEI requested that DOE raise the annual per fleet maximum from 5 to 25 credits. EDTA also requested that the annual cap be increased. For the same reasons set forth in Part III.C.3.a above regarding devaluation of the current credit market, DOE rejects these recommendations.

APGA and NGV America argued that a covered fleet should earn credit even when the alternative fuel non-road equipment in which it invested is owned by another entity. DOE does not agree, principally because it considers a fleet's investment in alternative fuel non-road equipment to be somewhat analogous to the acquisition of an AFV. To maintain programmatic consistency, DOE is adopting the same guiding principle for investments in alternative fuel non-road equipment. Under the Program, a covered fleet can earn AFV acquisition credit only through its own AFV acquisitions; it cannot generate credits from the AFVs acquired by other organizations (with the one exception being an approved State plan).[38]

This is different from the approach DOE is taking with respect to alternative fuel infrastructure investments. DOE believes the overall goal of the replacement fuel provisions of EPAct 1992 is to increase the availability of alternative and replacement fuels to all potential users. Investments made in infrastructure can help make this happen, regardless of who the ultimate owner of the infrastructure is. In the case of non-road equipment, however, the use of the equipment is, like an AFV, more specific to the fleet that owns it. In addition, to qualify for non-road equipment investment credit, DOE is requiring that the investing fleet verify that the equipment is being

[36] DOE will distinguish a basic 120V electrical wall outlet from Level 1 or Level 2 charging stations or DC (direct-current) fast charging stations, such as those currently available (*see, e.g., http://www.pluginamerica.org/accessories; http://www.afdc.energy.gov/fuels/electricity_infrastructure.html*).

[37] *See* DOE, *Transportation Energy Data Book: Edition 31* (July 2012), at Table 10.12.

[38] *See* 10 CFR 490.203.

operated on alternative fuel. From a compliance perspective, it is far more straightforward for a fleet to verify, and for DOE to audit, information on the non-road equipment that the fleet owns. Ensuring the accuracy of information pertaining to non-road equipment in which a fleet invested but that is owned by others would simply be too tenuous.

Under the regulations being finalized today, a covered fleet must seek alternative fuel non-road equipment investment credit through its credit activity report. To allocate credit, DOE will need to know how much money was expended, the period or model year during which the investment was made, and on exactly what mobile equipment the investment was spent. Consistent with the definition of alternative fuel non-road equipment, a fleet requesting credit must certify that the equipment is being operated on alternative fuel, within the constraints of best practices and seasonal fuel availability.

DOE acknowledges that a covered fleet's investment in alternative fuel non-road equipment may not necessarily coincide with the fleet's acquisition of the equipment. As with alternative fuel infrastructure, a fleet should seek credit in the model year in which the non-road equipment is put into operation. A fleet may combine the monetary amount invested in a particular model year in alternative fuel non-road equipment and alternative fuel infrastructure and/or emerging technology for the purpose of achieving an applicable investment credit threshold.

c. Emerging Technology

As discussed in Part III.B.8, credit for investments in emerging technology will be based on the development status of the relevant vehicle technologies. In EISA section 133, Congress instructed DOE to allocate credits for such emerging technology investments so as ''to encourage (i) a reduction in petroleum demand; (ii) technological advancement; and (iii) a reduction in vehicle emissions.'' In DOE's view, only by deploying the vehicle technologies listed in section 133 (i.e., hybrid electric vehicles, plug-in electric drive vehicles, neighborhood electric vehicles, fuel cell electric vehicles, and medium- or heavy-duty electric vehicles) before widespread commercial availability (or production) can necessary data from actual users be generated, including data related to performance and operating costs. If data show that no improvement is needed, then such data could assist future potential users in deciding whether to select the technology.

DOE proposed that investments in pre-production versions of the EISA-specified vehicle types would earn 1 credit for each $25,000 invested in one or more pre-production vehicles, up to a 5 credit limit (correlating with $125,000 invested), with expenditures on any *remaining* pre-production vehicles potentially counting as light duty AFV acquisitions.

EDTA and EEI suggested either that the credit cap be raised to 25 or that there be no fleet-specific credit cap, but rather a Program-wide cap. Regarding the imposition of a credit cap and what the appropriate cap level should be, DOE again stresses that imposing a cap on the number of credits that may be earned is critical to ensuring proper functioning of the Program's credit system. As for a Program-wide cap, DOE believes that such a cap would be inherently unfair, as only some fleets would be able to obtain credits for their investments in emerging technologies. Therefore, DOE is rejecting the suggestion of a Program-wide credit cap for investments in emerging technology.

EEI also commented that DOE should apply a multiplier for credits for light duty emerging technology vehicles (x 2.5) and also for medium-duty and heavy-duty emerging technology vehicles (x 5.0). DOE recognizes the importance of emerging technology vehicles as the means by which new advanced technology vehicles and alternative fuel vehicles reach production. Nonetheless, through EPAct section 508(b)(2)(B), Congress specifically authorized DOE to allocate credits for emerging technology in an amount of more than 1 but not to exceed 5. Therefore, DOE lacks authority to provide additional credits beyond that which DOE proposed. Within the context of this limitation, this final rule establishes that an investment of a minimum of $125,000 in an emerging technology (i.e., a pre-production vehicle) yields 5 credits.

In this final rule, DOE is making one minor change to what it proposed, namely that to earn any emerging technology credits, a $50,000 threshold must be met, at which point 2 credits will be allocated. DOE has selected the $50,000 threshold for several reasons. First, Congress specifically authorized DOE to provide more than 1 and not more than 5 credits for this category of investment. Therefore, DOE cannot provide 1 credit for $25,000 invested, but wishes to maintain the $25,000 increments that are consistent across all investment categories in this rule. Moreover, the typical emerging technology investment will likely be far more than $25,000, so this change should be of little consequence in most cases. Once the $50,000 threshold is met, each of the next $25,000 increments achieved will earn 1 additional credit, up to a total of 5 credits (or $125,000). Finally, as with investments in alternative fuel non-road equipment, the $25,000 increment is based on the average price of a new light duty AFV sold in the United States in 2010, and consistent with the other investment-related credits, DOE will not allot fractional credits for investments in emerging technology. To illustrate the above criteria, a covered fleet spending $500,000 on the acquisition of 10 pre-production light duty PHEVs (i.e., $50,000 per PHEV) may obtain a total of 12 credits; 5 credits for the expenditure of at least $125,000 to acquire three of the vehicles and 7 credits for the acquisition of the other seven light duty PHEVs (assuming they are AFVs). If, however, a single investment of $45,000 were made, for example, no credits would be allocated because the $50,000 threshold was not met.

Fleets requesting credit under this provision will need to provide detailed information in order for DOE to verify the specific purposes of the subject investment, the number of credits the investment would qualify for, and that the investment has not been the subject of credit elsewhere under this program. Furthermore, eligibility for credits is dependent on the underlying vehicle technology still being considered ''emerging,'' in accordance with the definition discussed in Part III.B.8 above. Therefore, an investment that might be eligible for investment credit in one year might not be eligible the next year, if the underlying vehicle technology moves into commercial production. DOE acknowledges that a covered fleet's investment in emerging technology may not necessarily coincide with the fleet's acquisition of the technology. For consistency, however, a fleet will get credit for the year in which the emerging technology is put into operation. In addition, to be eligible for consideration of credit, the requesting fleet will have to have made the investment. Investments in emerging technologies by organizations not subject to the requirements of the AFTP will not be eligible for credits (e.g., payments to industry groups or associations or for education outreach, lobbying, or other similar activities for which the fleet has little or no control over the activity). Fleets will have to certify the accuracy of the information provided.

4. Summary of Credit Allocations and Implementation Requirements

Set forth below is a table summarizing the credit allocations under this action.

Summary Table of Credits

CREDIT LEVELS UNDER STANDARD COMPLIANCE FOR ELECTRIC DRIVE VEHICLES NOT CLASSIFIED AS AFVS AND FOR OTHER ACTIONS

Credit category	Credit allotment	Limitations/other
HEV	½ credit	
PHEV	½ credit	
FCEV	½ credit	
NEV	¼ credit	Not included in covered LDV count.
Medium- or heavy-duty HEV	½ credit	Not included in covered LDV count.
Alternative Fuel Infrastructure	1 credit per $25,000 invested*	Maximum of 5 credits if private infrastructure, 10 credits if publicly-accessible infrastructure; credit allocated in model year placed into operation.
Alternative Fuel Non-road Equipment.	1 credit per $25,000 invested*	Maximum of 5 credits if per fleet per model year.
Emerging Technology	2 credits for initial $50,000 invested and 1 credit per $25,000 thereafter, or 1 credit per pre-production vehicle*.	Maximum of 5 credits if counting based on amount invested, per fleet per model year.

* Aggregation of dollar amounts allowed.

As indicated in the NOPR and as explained above, to receive credit for investments under EISA section 133, a covered fleet must provide DOE with a credit activity report. The credit activity report will also serve as the mechanism through which DOE will apportion credit for a fleet's acquisition of any of the electric drive vehicles being allocated credit under this final rule. As specified in the regulatory text, for each such acquired vehicle, a covered fleet must include in its credit activity report the make and model, model year, vehicle identification number, and date of acquisition. These vehicle-specific details are virtually identical to the data that covered fleets already provide, as part of their Standard Compliance annual reports, for the AFVs they acquire each year.

Since the Program's inception, rather than formally requiring covered fleets to submit a credit activity report in order to obtain credits for excess (or early) AFV acquisitions, DOE has enabled fleets seeking to bank AFV credits as a result of these acquisitions (e.g., a light duty or a medium- or heavy-duty AFV acquired over and above the fleet's light duty AFV-acquisition requirement) to submit the necessary information to DOE as part of their annual reports. Upon verification of the information, DOE has proceeded to add the appropriate number of banked credits to the respective fleet's credit account.

Under this final rule, covered fleets seeking to bank excess (or early) credits under Standard Compliance will no longer be able to submit only an annual report by the December 31 reporting deadline. Rather, any fleet seeking the allocation of credit under Subpart F of the AFTP regulations will have to provide DOE with a credit activity report. This includes not only fleets seeking credit for any of the investments (alternative fuel infrastructure, alternative fuel non-road equipment, emerging technology) and/or any of the electric drive vehicle acquisitions (non-AFV light duty HEVs, non-AFV light duty PHEVs, non-AFV light duty FCEVs, NEVs, non-AFV medium- or heavy-duty FCEVs, non-AFV medium- or heavy-duty HEVs) addressed in this action, but also fleets seeking to bank credits for their excess (or early) AFV acquisitions. In addition, DOE is adding regulatory language to make clear that fleets involved in a credit transfer and fleets that requested the application of banked credits likewise must provide DOE with a credit activity report. Credit transfer details have always been included in the credit activity reporting provision, and with regard to the application of banked credits, the new language merely reconciles the credit activity reporting provision with the AFTP's annual reporting requirements.

To minimize the reporting burden on covered fleets, DOE has revised its online annual reporting system (*http://www1.eere.energy.gov/vehiclesandfuels/epact/annual_report.html.*) and the annual report form (Form DOE/FCVT/101: Standard Compliance Reporting Spreadsheet) so that the credit activity report is now incorporated in (i.e., a part of) the annual report. Importantly, this modification will not result in DOE receiving any information (except with regard to the EISA section 133 electric drive vehicles and investments) that it does not already receive from covered fleets. Corresponding revisions have been made to the regulatory provisions on annual reporting.[39]

D. Additional Program Modifications

In the interest of ensuring continued efficient operation of the Program, DOE proposed a number of modifications that it believed would benefit stakeholders (i.e., covered fleets) and increase Program effectiveness. DOE today is finalizing most of these AFTP modifications, as discussed below.

1. Timeliness of Exemption Request Submittals

Based on the experience it has gained since the AFTP's inception, DOE proposed to establish a five-month timeframe for the submission of exemption requests. Specifically, DOE proposed that a covered fleet may submit an exemption request no earlier than September 1 following the model year for which the exemption is sought and no later than January 31 following that model year. DOE also proposed to make clear that an exemption request must be preceded by the fleet's annual report, and that if DOE seeks clarification or additional information pertaining to a submitted exemption

[39] Specifically with respect to 10 CFR 490.205(b)(5)(iv) and 10 CFR 490.308(b)(5)(iv), DOE encourages covered fleets to submit a photocopy of the label that automobile manufacturers have been obligated to attach to the fuel compartment of their dual fueled automobiles since September 1, 2006. *See* EPAct 2005 section 759 (codified at 49 USC 32905(f)).

request, the concerned fleet must respond within 30 days of DOE's inquiry. DOE proposed these changes to enhance the accuracy of exemption requests and minimize the need either for fleets to revise and resubmit their requests or for DOE to have to follow up with the requesting fleet.

Only one commenter, EEI, addressed DOE's proposed modifications on the timeliness of exemption requests. EEI supported the proposed changes. Hence, DOE is finalizing the five-month timeframe within which a covered fleet may seek exemptions under Standard Compliance, the necessity for a fleet's exemption request to be preceded by its annual report, and the 30-day period for a fleet to provide clarification or additional information in response to a DOE inquiry.

Going forward, if a covered fleet submits an exemption request during the subject model year (i.e., at any time prior to the model year's close on August 31), DOE will inform the fleet's point of contact (POC) by electronic mail that the exemption request is premature and will not be considered unless it is resubmitted after September 1 and also after the fleet has filed its required annual report. Similarly, if a covered fleet submits an exemption request after January 31 following the subject model year, DOE will inform the POC by electronic mail that because the exemption request was submitted after the expiration of the five-month period, DOE considers the request invalid and, thus, will not provide a written determination under the applicable regulatory provisions. Finally, if a covered fleet does not respond to a DOE inquiry for additional information within 30 days, DOE will process the fleet's exemption request based on the information DOE already has, which may not be sufficient to support the granting of the exemption request either in whole or in part.

DOE expects no hardship to result from these changes. Additionally, DOE maintains that those covered fleets that file their annual reports by the December 31 annual reporting deadline will have at least a full month, which in DOE's view is sufficient time, to prepare and submit an exemption request, although early submission of annual reports remains highly recommended.

2. Program Credits and Exemption Requests

In the NOPR, DOE explained that the purpose of the alternative fueled vehicle credit program in Subpart F of the AFTP regulations is to provide compliance flexibility to SFP fleets. DOE pointed out that since the AFTP's creation, fleets have generated a significant number of banked credits. In fact, there are currently approximately 70,000 banked AFV credits in the system. Given that the average aggregate annual AFV-acquisition requirement for covered fleets operating under the AFTP's Standard Compliance method typically ranges from 10,000 to 14,000 AFVs, DOE estimates that the credits currently in the system would be sufficient to keep the AFTP operating—without covered fleets acquiring any AFVs—for at least four years. DOE also explained in the NOPR that covered fleets with a positive credit account balance often request exemptions from DOE.

In an effort to limit the future growth of the store of banked AFV credits currently in the system and thereby ensure that those credits continue to have value for the fleets possessing them, DOE proposed three separate AFTP revisions. First, DOE proposed to add language to the regulatory provision on the use of AFV credits that would require covered fleets to use their own banked credits before requesting exemptions from DOE. Second, DOE proposed to require that a deficient fleet without sufficient banked credits to resolve the deficiency include in its annual report a description of all efforts made to acquire AFV credits on the credit market. Third, DOE proposed to add language stating that a fleet may not submit an exemption request within 90 days of selling or trading any of its banked AFV credits. These proposals were based on DOE's view that a request for exemptions amounts to administrative relief of the last resort (i.e., relief when a fleet cannot otherwise meet its annual AFV-acquisition requirements), and sought to ensure that existing AFV credits get used for the very purpose for which they were generated.

Three organizations (APGA, EEI, and FP&L) commented on these proposed changes. APGA agreed with DOE that there are an excessive number of banked credits in the system, and supported the proposal to require fleets to use their banked AFV credits before seeking exemptions. APGA also requested clarification of the annual reporting provision if deficient fleets would not be obligated to acquire credits. EEI and FP&L opposed the proposed changes. EEI contended that the revisions would hurt those fleets with fewer banked credits, and stated that the existing banking mechanism is important when AFVs that meet the business needs of a fleet are unavailable in a model year. FP&L argued that fleets should be rewarded for over-compliance, and opined that the acquisition of AFVs beyond the mandated levels serves to encourage the manufacture of AFVs.

Based on the weight of the comments received and after consideration of the benefits of the three proposed credit provisions discussed above, DOE today is choosing not to finalize the proposed qualifications for the granting of exemptions. DOE has determined that the proposals would offer more rigorous compliance requirements without a sufficient benefit to the efficacy of the Program.

3. Alternative Compliance

As explained in the NOPR, DOE believes it is appropriate to have a single due date for complete Alternative Compliance waiver applications. DOE therefore proposed to remove 10 CFR section 490.805(b)(3) and establish in section 490.805(b)(2) a uniform application deadline such that all waiver applications would be due no later than July 31 prior to the model year for which a waiver is sought. DOE pointed out that the deadline for filing a notice of intent, March 31 prior to the model year for which a waiver is sought, would be unaffected by this change.

The lone commenter to address this proposed revision, EEI, supported it. DOE is therefore finalizing the uniform Alternative Compliance waiver application deadline of July 31.

Based on its implementation to date of the Alternative Compliance option, DOE also proposed amendments to 10 CFR section 490.804(c) to clarify the steps for requesting the roll-over of excess petroleum reductions and/or the application of banked rollover reductions. DOE received no comments on these revisions, and is finalizing them.

Under this final rule, a fleet wishing to roll over for future use the excess petroleum reductions that it achieved in a particular model year must make a written request to DOE as part of the fleet's annual report for that model year, and DOE subsequently will inform the fleet of the amount that has been rolled over (i.e., banked). If a fleet seeks to apply any of its banked excess reductions to its petroleum reduction requirement in a later model year for which an Alternative Compliance waiver was also granted, the fleet likewise must include a written request as part of its annual report for that later model year. Before making a decision on a fleet's request to apply rollover reductions, DOE may request additional information from the fleet. In the past, for example, DOE has queried whether a fleet that failed to meet its petroleum reduction requirement owned/operated any FFVs or other AFVs, and if so,

whether it used E85 or some other alternative fuel (besides neat biodiesel). Such alternative fuel usage would reduce the quantity of banked gasoline gallon equivalents needed to be applied to offset the fleet's shortfall.

Finally, in the NOPR, DOE proposed a modification to 10 CFR section 409.809 to address the situation in which DOE has revoked a fleet's Alternative Compliance waiver. No organization commented on this revision, so DOE is finalizing it. Under revised section 490.809, a fleet whose waiver has been revoked is ineligible for any exemptions during that model year.

4. Other Regulatory Revisions

As part of the NOPR, DOE proposed to make the ''emergency motor vehicles'' exclusion in 10 CFR section 490.3(e) consistent with the statutory language in section 301(9)(E) of EPAct 1992, as amended, and to make minor technical amendments to several other AFTP regulatory provisions. DOE did not receive comments on any of these proposed changes, and is finalizing them.

With respect to the emergency motor vehicles exclusion, DOE reminds SFP fleets that for a particular vehicle to be excluded, the fleet must submit a written exclusion request in accordance with DOE's established guidance.[40] The minor technical amendments being finalized today clarify the definitions of ''capable of being centrally fueled'' and ''fleet'' in 10 CFR section 490.2, correct an incorrect reference to a State's rather than a covered person's exemption request, and standardize the use of the terms ''alternative fueled,'' ''dedicated,'' and ''dual fueled'' in various regulatory provisions.

5. Other Issues

This final rule increases the number of creditable actions under the AFTP and, as a result, expands the range of available compliance options. In particular, credit will now be allocated to fleets for the acquisition of non-AFV HEVs, among other vehicles. DOE notes that non-AFV HEVs and the fuel on which they operate (i.e., gasoline) are widely available throughout the country. For this reason, DOE's prospective approach to the granting of exemptions under the applicable regulatory provisions will be similar to its longstanding policy on biodiesel. Under that policy, unless a covered fleet seeking exemptions either indicates in its exemption request that it does not own or operate any or a sufficient number of medium-or heavy-duty diesel vehicles or demonstrates that biodiesel is unavailable to it, DOE limits the number of exemptions granted to no more than one-half of the fleet's annual AFV-acquisition requirements, inasmuch as biodiesel fuel use credits may account for up to 50% of those annual requirements (10 CFR 490.705(b)). Because non-AFV HEVs are widely available, DOE will also expect a covered fleet seeking exemptions for MY 2014 or thereafter to demonstrate in its exemption request why it was unable to acquire such HEVs and therefore meet at least 50% of its annual AFV-acquisition requirements with such vehicles (due to the ½ credit allocated for each non-AFV HEV).[41] Unless the fleet shows that HEVs were not available in the light duty vehicle type needed by the fleet, DOE will limit the number of exemptions granted based on a shortfall of non-AFV HEV acquisitions.

IV. Compliance

The approach that DOE is establishing today allocates less than one credit to certain vehicle types, and whole number values of credits for investments in alternative fuel infrastructure, alternative fuel non-road equipment, and relevant emerging technologies. DOE also is directing that when fleets report to DOE the total credits they have earned in a model year, they must total the credits, including all fractional credits earned for vehicle acquisitions, and round to the nearest whole number. In rounding to the nearest whole number, fractions greater than or equal to one half (0.5) should be rounded up and fractions less than one half should be rounded down. For example, DOE would approve 14 credits for a fleet that submits appropriate documentation supporting its acquisition of AFVs and non-AFVs that total 13½ or 13¾ credits. Similarly, DOE would approve 13 credits for a fleet that submits appropriate documentation supporting its acquisition of AFVs and non-AFVs that total 13¼ credits. This rounding approach to fractional credits is consistent with how fleets already round for purposes of calculating their AFV-acquisition requirements.

Additionally, DOE notes that the section 133 credit provisions adopted in this final rule will apply to acquisitions and purchases in MY 2014 and all subsequent model years.

V. Regulatory Review

A. Review Under Executive Order 12866

This rule has been determined not to be a ''significant regulatory action'' under section 3(f) of Executive Order 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (October 4, 1993). Accordingly, this action was not subject to review under that Executive Order by the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget (OMB).

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA; 5 U.S.C. 601 *et seq.*) requires the preparation of a regulatory flexibility analysis for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. These procedures and policies are available at *http://www.gc.doe.gov/documents/eo13272.pdf.*

DOE has reviewed this rule under the provisions of the RFA and the procedures and policies published on February 19, 2003. The requirements in 10 CFR part 490 apply to alternative fuel providers and State government entities that own, operate, lease, or otherwise control 50 or more non-excluded LDVs, at least 20 of which are centrally fueled or capable of being centrally fueled and are used primarily in a metropolitan statistical area (MSA) or consolidated MSA with a 1980 Census population of more than 250,000. DOE used the small business size standards to determine whether any small entities would be impacted by the proposed rule. Electric co-operatives and municipal utilities are classified under NAICS Code 221112, ''Fossil Fuel Electric Power Generation.'' In this category, small entities are those for which the total electric output for the preceding fiscal year did not exceed 4 million megawatt hours. The same threshold applies for other types of electric power generation, including hydroelectric (Code 221111) and ''other'' electric power generation (Code 221119). Natural gas suppliers

[40] *See* DOE, ''Documentation Guidelines for Emergency Repair and Restoration Vehicle Exclusions'' (Sept. 2009), available at *http://www1.eere.energy.gov/vehiclesandfuels/epact/pdfs/section_707_guidance.pdf.*

[41] Note that beginning in MY 2014, a covered fleet could potentially meet 100% of its annual AFV-acquisition requirements through a combination of non-AFV HEV acquisitions and biodiesel fuel use credits.

(Code 221210) have a separate threshold, 500 employees. Analysis of the electric utilities and natural gas suppliers regulated under the Program identified at least 3 small entities that are required to report under the regulations.

This final rule amends the process for demonstrating compliance in a number of ways, including primarily:

(1) Offering credits for a variety of acquisitions and expenditures that did not previously receive credit, including the purchase of hybrid electric vehicles and investments in qualified alternative fuel infrastructure, non-road equipment, and emerging technologies related to specific vehicle types; and

(2) Better aligning the timeframe for document submissions with the vehicle model year to obviate the need for amended reporting.

Based on the scope of the rule provided above, DOE concludes that it will not have a significant economic impact on a substantial number of small entities. This rule provides additional compliance options under 10 CFR part 490 by expanding credits under the existing AFTP, and therefore provides covered small entities additional flexibility in complying through acquisition of vehicles and investments to the extent that such acquisitions and investments are consistent with the business needs of the small entities. DOE's certification and supporting statement of factual basis has been provided to the Chief Counsel for Advocacy of the Small Business Administration pursuant to 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 (PRA; 44 U.S.C. 3501 *et seq.*) and the regulations implementing the PRA, 5 CFR 1320.1 *et seq.,* a ''person'' is not required to respond to a ''collection of information'' unless it displays a currently valid OMB control number.

The information collection requirements associated with the AFTP's annual report(s) were previously approved under OMB Control Number 1910–5101. This rule includes an additional collection of information that is subject to review by OMB under the PRA, specifically documentation to support the allocation of credits through use of the AFTP's annual reporting form, DOE/FCVT/101, Standard Compliance Reporting Spreadsheet. OMB has approved this additional information collection under existing OMB Control Number 1910–5101. Under this final rule, specifically 10 CFR 490.508 (''Credit activity reporting requirements''), DOE will collect information regarding electric drive vehicle acquisitions and investments in refueling infrastructure, alternative fuel non-road equipment, and emerging technology when fleets choose to submit such information in support of their compliance requirements and in seeking to bank credits for such acquisitions and investments.

DOE estimates that all covered fleets may seek to earn credits for acquiring electric drive vehicles, but that fewer fleets will seek to earn credits for investing in alternative fuel infrastructure, alternative fuel non-road equipment, and emerging technology. DOE estimates that a covered fleet seeking credits for both acquiring electric drive vehicles and for investing in alternative fuel infrastructure, alternative fuel non-road equipment, and emerging technology would expend 1 additional hour to comply with the reporting requirements of 10 CFR 490.508.

DOE estimates the total annual costs to a covered fleet that seeks credits under this final rule are minimal, particularly given that the fleet is already submitting an annual report to achieve compliance with Program requirements, and that information it would submit for the acquisition of one vehicle type would simply replace information it would otherwise submit for a different vehicle type.

D. Review Under the National Environmental Policy Act

DOE has determined that this rule is covered under the Categorical Exclusion found in DOE's National Environmental Policy Act regulations at paragraph A5 of Appendix A to Subpart D, 10 CFR part 1021, which applies to any rulemaking amending an existing rule or regulation that does not change the environmental effect of the rule or regulation being amended. Under this rule, covered fleets would be able to earn credits for the acquisition of specified electric drive vehicles and for investments in alternative fuel infrastructure, non-road equipment, and relevant emerging technologies, activities for which they may not earn credits under the existing AFTP. The rule has been structured to ensure that the petroleum reductions achieved by the AFTP in the future would be equivalent to those achieved in past years. Because the rule would not change the environmental effect of compliance with 10 CFR part 490, neither an environmental assessment nor an environmental impact statement is required.

E. Review Under Executive Order 12988

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

F. Review Under Executive Order 13132

Executive Order 13132, ''Federalism,'' 64 FR 43255 (August 10, 1999), imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. Agencies are required to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and carefully assess the necessity for such actions. DOE has examined this rule and determined that it would not preempt State law and would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. This rule provides additional compliance options under 10 CFR part 490 by expanding credits under the existing AFTP, and therefore provides covered state fleets additional flexibility in complying through

acquisition of vehicles and investments to the extent that such acquisitions and investments are consistent with the business needs of the covered state fleets. Therefore, no further action is required by Executive Order 13132.

G. Review Under the Unfunded Mandates Reform Act of 1995

DOE reviewed this rule under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA; Pub. L. 104–4), which requires each Federal agency to assess the effects of its regulatory actions on State, local, and tribal governments and the private sector. For a regulatory action likely to result in the promulgation of a rule that includes a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires the agency to prepare a written statement assessing the resulting costs, benefits, and other effects of the rule on the national economy (2 U.S.C. 1532(a) and (b)). UMRA also requires a Federal agency to develop an effective process to permit meaningful and timely input by elected officers of State, local, and tribal governments on any proposal containing a ''significant Federal intergovernmental mandate,'' and requires an agency to develop a plan for providing potentially affected small governments with notice and an opportunity for timely input prior to the establishment of any regulatory requirements that might significantly or uniquely affect small governments (2 U.S.C. 1533 and 1534). On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA (62 FR 12820) (also available at *http://www.gc.doe.gov*).

This rule provides additional compliance options under 10 CFR part 490 by expanding credits under the existing AFTP, and therefore contains neither an intergovernmental mandate nor a private sector mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any year. Accordingly, no assessment or analysis is required under UMRA.

H. Review Under the Treasury and General Government Appropriations Act, 1999

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

I. Review Under the Treasury and General Government Appropriations Act, 2001

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

J. Review Under Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA a Statement of Energy Effects for any significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgates or is expected to lead to the promulgation of a final rule or regulation, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of OIRA as a significant energy action. The Statement of Energy Effects must discuss any adverse effects on energy supply, distribution, or use should the proposal be implemented, and reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

As discussed in Part V.A above, this rule has been determined not to be a ''significant regulatory action'' under Executive Order 12866. In addition, this final rule provides additional compliance options under the AFTP that support reduced petroleum use in vehicle fleets. As such, the rule will not have a significant adverse effect on the supply, distribution, or use of energy and, therefore, is not a significant energy action. Additionally, OIRA has not designated this action as a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

K. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this rule prior to its effective date. The report will state that it has been determined that the rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 10 CFR Part 490

Administrative practice and procedure, Energy conservation, Fuel economy, Gasoline, Motor vehicles, Natural gas, Penalties, Petroleum, Reporting and recordkeeping requirements.

Issued in Washington, DC, on March 12, 2014.

David T. Danielson,

Assistant Secretary, Energy Efficiency and Renewable Energy.

For the reasons set forth in the preamble, DOE amends part 490 of Title 10, Code of Federal Regulations as set forth below:

PART 490—ALTERNATIVE FUEL TRANSPORTATION PROGRAM

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

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

Subpart A —[Amended]

■ 2. Section 490.1 is amended by revising paragraph (a) to read as follows:

§ 490.1 Purpose and scope.

(a) The provisions of this part implement the alternative fuel transportation program for State government and alternative fuel provider fleets under titles III, IV, and V of the Energy Policy Act of 1992 (Pub. L. 102–486).

* * * * *

■ 3. Section 490.2 is amended by:

■ a. Adding '', including liquid fuels domestically produced from natural gas'' after the words ''natural gas'' in the definition of ''Alternative Fuel''.

■ b. Removing the definitions of ''Electric-hybrid Vehicle,'' ''Electric Motor Vehicle,'' and ''Flexible Fuel Vehicle''.

■ c. Revising the definitions of ''Alternative Fueled Vehicle,'' ''Automobile,'' ''Capable of Being Centrally Fueled,'' ''Dedicated Vehicle,'' ''Dual Fueled Vehicle,'' and ''Fleet''.

■ d. Adding the definition of ''Work Truck'' in alphabetical order.

The additions and revisions read as follows:

§ 490.2 Definitions.

* * * * *

Alternative Fueled Vehicle means a dedicated vehicle or a dual fueled vehicle, as those terms are defined in this section.

* * * * *

Automobile means a 4-wheeled vehicle that is propelled by conventional fuel, or by alternative fuel, manufactured primarily for use on public streets, roads, and highways and having a gross vehicle weight rating of less than 10,000 pounds, except:

(1) A vehicle operated only on a rail line;

(2) A vehicle manufactured in different stages by two or more original equipment manufacturers, if no intermediate or final-stage original equipment manufacturer of that vehicle manufactures more than 10,000 multi-stage vehicles per year; or

(3) A work truck, as that term is defined in this section.

Capable of Being Centrally Fueled means that a vehicle can be fueled at least 75 percent of the time at a location that is owned, operated, or controlled by the fleet or covered person, or at a location that is under contract with the fleet or covered person for fueling purposes.

* * * * *

Dedicated Vehicle means—

(1) An automobile that operates solely on one or more alternative fuels; or

(2) A motor vehicle, other than an automobile, that operates solely on one or more alternative fuels.

Dual Fueled Vehicle means—

(1) An automobile that meets the criteria for a dual fueled automobile as set forth in 49 U.S.C. 32901(a)(9); or

(2) A motor vehicle, other than an automobile, that is capable of operating on alternative fuel and on gasoline or diesel.

* * * * *

Fleet means a group of 20 or more light duty motor vehicles, excluding certain categories of vehicles as provided by § 490.3, used primarily in a metropolitan statistical area or consolidated metropolitan statistical area, as established by the Bureau of the Census as of December 31, 1992, with a 1980 Census population of more than 250,000 (listed in Appendix A to this subpart), that are centrally fueled or capable of being centrally fueled, and are owned, operated, leased, or otherwise controlled—

(1) By a person who owns, operates, leases, or otherwise controls 50 or more light duty motor vehicles within the United States and its possessions and territories;

(2) By any person who controls such person;

(3) By any person controlled by such person; or

(4) By any person under common control with such person.

* * * * *

Work Truck means a vehicle having a gross vehicle weight rating of more than 8,500 and less than or equal to 10,000 pounds that is not a medium-duty passenger vehicle as that term is defined in 40 CFR 86.1803–01.

■ 4. Section 490.3, paragraph (e), is revised to read as follows:

§ 490.3 Excluded vehicles.

* * * * *

(e) Emergency motor vehicles, including vehicles directly used in the emergency repair of transmission lines and in the restoration of electricity service following power outages, as determined by DOE;

* * * * *

Subpart C—[Amended]

■ 5. Section 490.202, paragraph (a), is revised to read as follows:

§ 490.202 Acquisitions satisfying the mandate.

* * * * *

(a) The purchase or lease of an Original Equipment Manufacturer light duty vehicle (regardless of the model year of manufacture) that is an alternative fueled vehicle and that was not previously under the control of the State or State agency;

* * * * *

■ 6. Section 490.204 is amended by:

■ a. Revising paragraph (b);

■ b. Redesignating paragraphs (g) through (h) as paragraphs (h) through (i); and

■ c. Adding new paragraph (g).

The revision and additions read as follows:

§ 490.204 Process for granting exemptions.

* * * * *

(b) Requests for exemption must be accompanied by supporting documentation, must be submitted no earlier than September 1 following the model year for which the exemption is sought and no later than January 31 following the model year for which the exemption is sought, and will only be considered following submission of the annual report under § 490.205.

* * * * *

(g) If DOE, in response to a request for exemption, seeks clarification or additional information from the State, such clarification or additional information must be submitted to DOE in accordance with paragraph (f) of this section within 30 days of DOE's inquiry. In the event a State does not comply with this timeframe, DOE will proceed under paragraph (h) of this section based on the documentation provided to date.

* * * * *

■ 7. Section 490.205 is amended by:

■ a. Revising paragraphs (b)(4), (b)(5)(iv), (b)(5)(v), and (c); and

■ b. Adding new paragraphs (b)(5)(vi) through (vii).

The revisions and additions read as follows:

§ 490.205 Reporting requirements.

* * * * *

(b) * * *

(4) Number of alternative fueled vehicle credits applied towards acquisition requirements pursuant to § 490.505;

(5) * * *

(iv) An indication of whether the vehicle is a dedicated vehicle or a dual fueled vehicle;

(v) Type(s) of alternative fuel on which the vehicle is capable of operating;

(vi) Acquisition date; and

(vii) If the annual report shows that the State fleet did not satisfy its alternative fueled vehicle acquisition mandate, an indication of whether the fleet intends to submit a request for exemption under § 490.204; and

* * * * *

(c) If banked alternative fueled vehicle credits are applied towards a State's alternative fueled vehicle acquisition requirements pursuant to § 490.505, or if allocation of alternative fueled vehicle credits is sought under subpart F of this part, then a credit activity report, as described in § 490.508, must be included with the annual report submitted under this section.

* * * * *

Subpart D—[Amended]

§ 490.302 [Amended]

■ 8. Section 490.302 is amended by removing the reference ''section 490.308'' in paragraph (e) and adding in its place ''§ 490.307.''

■ 9. Section 490.305, paragraph (a), is revised to read as follows:

§ 490.305 Acquisitions satisfying the mandate.

* * * * *

■ (a) The purchase or lease of an Original Equipment Manufacturer light duty vehicle (regardless of the model year of manufacture) that is an

alternative fueled vehicle and that was not previously under the control of the covered person;

* * * * *

§ 490.307 [Removed]

■ 10. Section 490.307 is removed.

§ 490.308 [Redesignated as § 490.307]

■ 11. Section 490.308 is redesignated as § 490.307 and newly redesignated § 490.307 is amended by:

■ a. Adding ''(1)'' after the letter ''(a)'' in paragraph (a);

■ b. Adding new paragraphs (a)(2) and (c)(4); and

■ c. Removing, in paragraph (f), the word ''State's'' and adding in its place, ''covered person's''.

The additions read as follows:

§ 490.307 Process for granting exemptions.

(a)(1) * * *

(2) Requests for exemption must be accompanied by supporting documentation, must be submitted no earlier than September 1 following the model year for which the exemption is sought and no later than January 31 following the model year for which the exemption is sought, and will only be considered following submission of the annual report under § 490.308.

* * * * *

(c) * * *

(4) If DOE, in response to a request for exemption, seeks clarification or additional information from the covered person, such clarification or additional information must be submitted to DOE in accordance with paragraph (a) of this section within 30 days of DOE's inquiry. In the event a covered person does not comply with this timeframe, DOE will proceed under paragraph (f) of this section based on the documentation provided to date.

* * * * *

§ 490.309 [Redesignated as § 490.308]

■ 12. Section 490.309 is redesignated as § 490.308, and newly redesignated § 490.308 is amended by:

■ a. Removing ''or section 490.307,'' from paragraph (a);

■ b. Revising paragraphs (b)(4), (b)(5)(iv), (b)(5)(v), and (c); and

■ c. Adding new paragraphs (b)(5)(vi) through (vii).

The revisions and additions read as follows:

§ 490.308 Annual reporting requirements.

* * * * *

(b) * * *

(4) Number of alternative fueled vehicle credits applied towards acquisition requirements pursuant to § 490.505;

(5) * * *

(iv) An indication of whether the vehicle is a dedicated vehicle or a dual fueled vehicle;

(v) Type(s) of alternative fuel on which the vehicle is capable of operating;

(vi) Acquisition date; and

(vii) If the annual report shows that the covered person did not satisfy its alternative fueled vehicle acquisition mandate, an indication of whether the covered person intends to submit a request for exemption under § 490.307.

(c) If banked alternative fueled vehicle credits are applied towards a covered person's alternative fueled vehicle acquisition requirements pursuant to § 490.505, or if allocation of alternative fueled vehicle credits is sought under subpart F of this part, then a credit activity report, as described in § 490.508, must be included with the annual report submitted under this section.

* * * * *

§ 490.310 [Redesignated as § 490.309]

■ 13. Section 490.310 is redesignated as § 490.309.

Subpart F—[Amended]

■ 14. Section 490.500 is revised to read as follows:

§ 490.500 Purpose and scope.

This subpart implements the statutory requirements of section 508 of the Act, which provides for the allocation of credits to fleets or covered persons that:

(a) Acquire alternative fueled vehicles in excess of the number they are required to acquire under this part or obtain alternative fueled vehicles before the model year when they are required to do so under this part;

(b) Acquire certain other vehicles as identified in this subpart; or

(c) Invest in qualified alternative fuel infrastructure or non-road equipment or an emerging technology.

■ 15. Section 490.501 is revised to read as follows:

§ 490.501 Definitions.

In addition to the definitions found in § 490.2, the following definitions apply to this subpart:

Alternative Fuel Infrastructure means property that is for:

(1) The storage and dispensing of an alternative fuel into the fuel tank of a motor vehicle propelled by such fuel; or

(2) The recharging of motor vehicles or neighborhood electric vehicles propelled by electricity.

Alternative Fuel Non-road Equipment means mobile, non-road equipment that operates on alternative fuel (including but not limited to forklifts, tractors, bulldozers, backhoes, front-end loaders, and rollers/compactors).

Emerging Technology means a pre-production or pre-commercially available version of a fuel cell electric vehicle, hybrid electric vehicle, medium- or heavy-duty electric vehicle, medium- or heavy-duty fuel cell electric vehicle, neighborhood electric vehicle, or plug-in electric drive vehicle, as such vehicles are defined in this section.

Fuel Cell Electric Vehicle means a motor vehicle or non-road vehicle that uses a fuel cell, as that term is defined in section 803 of the Spark M. Matsunaga Hydrogen Act of 2005 (42 U.S.C. 16152(1)).

Hybrid Electric Vehicle means a new qualified hybrid motor vehicle as defined in section 30B(d)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 30B(d)(3)).

Medium- or Heavy-Duty Electric Vehicle means an electric, hybrid electric, or plug-in hybrid electric vehicle with a gross vehicle weight rating of more than 8,500 pounds.

Medium- or Heavy-Duty Fuel Cell Electric Vehicle means a fuel cell electric vehicle with a gross vehicle weight rating of more than 8,500 pounds.

Neighborhood Electric Vehicle means a 4-wheeled on-road or non-road vehicle that—

(1) Has a top attainable speed in 1 mile of more than 20 mph and not more than 25 mph on a paved level surface; and

(2) Is propelled by an electric motor and an on-board, rechargeable energy storage system that is rechargeable using an off-board source of electricity.

Plug-in Electric Drive Vehicle means a vehicle that—

(1) Draws motive power from a battery with a capacity of at least 4 kilowatt-hours;

(2) Can be recharged from an external source of electricity for motive power;

(3) Is a light-, medium-, or heavy-duty motor vehicle or non-road vehicle, as those terms are defined in section 216 of the Clean Air Act (42 U.S.C. 7550); and

(4) In the case of a plug-in hybrid electric vehicle, also includes an on-board method of charging the energy storage system and/or providing motive power.

■ 16. Section 490.502 is revised to read as follows:

§ 490.502 Applicability.

This subpart applies to all fleets and covered persons that are required to

acquire alternative fueled vehicles by this part.

■ 17. Section 490.503 is revised to read as follows:

§ 490.503 Creditable actions.

A fleet or covered person becomes entitled to alternative fueled vehicle credits, at the allocation levels specified in § 490.504, by:

(a)(1) Acquiring light duty alternative fueled vehicles, including those in excluded categories under § 490.3, in excess of the number of light duty alternative fueled vehicles that the fleet or covered person is required to acquire under § 490.201 or § 490.302;

(2) Acquiring alternative fueled vehicles, including those in excluded categories under § 490.3, with a gross vehicle weight rating of more than 8,500 pounds, in excess of the number of light duty alternative fueled vehicles that the fleet or covered person is required to acquire under § 490.201 or § 490.302;

(3) Acquiring in model year 2014 or in any model year thereafter, any of the following vehicles in excess of the number of light duty alternative fueled vehicles that the fleet or covered person is required to acquire under § 490.201 or § 490.302:

(i) Medium- or heavy-duty fuel cell electric vehicles that are not alternative fueled vehicles; or

(ii) Medium- or heavy-duty electric vehicles that are not alternative fueled vehicles;

(b) Acquiring alternative fueled vehicles, including those in excluded categories under § 490.3 and those with a gross vehicle weight rating of more than 8,500 pounds, in model years before the model year when that fleet or covered person is first required to acquire light duty alternative fueled vehicles under § 490.201 or § 490.302;

(c) Investing, during a model year that is model year 2014 or thereafter and is also a model year in which requirements under this part apply to the fleet or covered person, at least $25,000 in alternative fuel infrastructure or alternative fuel non-road equipment, or at least $50,000 in an emerging technology, provided that:

(1) The emerging technology, alternative fuel infrastructure, or alternative fuel non-road equipment is put into operation during the year in which the fleet or covered person has applied for credits;

(2) In the case of an emerging technology, the amount invested by the fleet or covered person is not the basis for credit under paragraphs (a), (b), or (d) of this section; and

(3) In the case of alternative fuel non-road equipment, the equipment is being operated on alternative fuel, within the constraints of best practices and seasonal fuel availability; or

(d) Acquiring, during a model year that is model year 2014 or thereafter and is also a model year in which requirements under this part apply to the fleet or covered person, any of the following vehicles, including those in excluded categories under § 490.3:

(1) A hybrid electric vehicle that is a light duty motor vehicle, but that is not an alternative fueled vehicle;

(2) A plug-in electric drive vehicle that is a light duty motor vehicle, but that is not an alternative fueled vehicle;

(3) A fuel cell electric vehicle that is a light duty motor vehicle, but that is not an alternative fueled vehicle; or

(4) A neighborhood electric vehicle.

(e) For purposes of this subpart, a fleet or covered person that acquired a motor vehicle on or after October 24, 1992, and converted it to an alternative fueled vehicle before April 15, 1996, shall be entitled to a credit for that vehicle notwithstanding the time limit on conversions established by §§ 490.202(c) and 490.305(c).

■ 18. Section 490.504 is revised to read as follows:

§ 490.504 Credit allocation.

(a) Based on annual credit activity report information, as described in § 490.508, DOE shall allocate:

(1) One alternative fueled vehicle credit for each alternative fueled vehicle, regardless of the vehicle's gross vehicle weight rating, that a fleet or covered person acquires in excess of the number of light duty alternative fueled vehicles that the fleet or covered person is required to acquire under § 490.201 or § 490.302; and

(2) One-half of an alternative fueled vehicle credit for each medium- or heavy-duty fuel cell electric vehicle that is not an alternative fueled vehicle and each medium- or heavy-duty electric vehicle that is not an alternative fueled vehicle, either or both of which a fleet or covered person acquires in excess of the number of light duty alternative fueled vehicles that the fleet or covered person is required to acquire under § 490.201 or § 490.302.

(b) If an alternative fueled vehicle, regardless of the vehicle's gross vehicle weight rating, is acquired by a fleet or covered person in a model year before the first model year that the fleet or covered person is required to acquire light duty alternative fueled vehicles by this part, as reported in the annual credit activity report, DOE shall allocate one credit per alternative fueled vehicle for each year the alternative fueled vehicle is acquired before the model year when acquisition requirements apply.

(c) DOE shall allocate credits to fleets and covered persons under paragraph (b) of this section only for alternative fueled vehicles acquired on or after October 24, 1992.

(d) Based on annual credit activity report information, as described in § 490.508, DOE shall allocate alternative fueled vehicle credit in the amount set forth below for the associated creditable actions that a fleet or covered person undertakes as described in § 490.503(d):

(1) A hybrid electric vehicle that is a light duty motor vehicle, but that is not an alternative fueled vehicle—½ credit;

(2) A plug-in electric drive vehicle that is a light duty motor vehicle, but that is not an alternative fueled vehicle—½ credit;

(3) A fuel cell electric vehicle that is a light duty motor vehicle, but that is not an alternative fueled vehicle—½ credit; and

(4) A neighborhood electric vehicle—¼ credit.

(e) Based on annual credit activity report information, as described in § 490.508, DOE shall allocate one alternative fueled vehicle credit for every $25,000 that a fleet or covered person invests, as described in § 490.503(c), in:

(1) Alternative fuel infrastructure that is:

(i) Publicly accessible, provided that the maximum number of credits under this paragraph shall not exceed ten for the model year and the alternative fuel infrastructure became operational in the same model year, and provided further that the total number of credits allocated under this paragraph (e)(1)(i) and paragraph (e)(1)(ii) of this section do not exceed ten in a given model year; or

(ii) Not publicly accessible, provided that the maximum number of credits under this paragraph shall not exceed five for the model year and the alternative fuel infrastructure became operational in the same model year, and provided further that the total number of credits allocated under this paragraph (e)(1)(ii) and paragraph (e)(1)(i) of this section do not exceed ten in a given model year; or

(2) Alternative fuel non-road equipment, provided that the maximum number of credits under this paragraph (e)(2) shall not exceed five for the model year, and provided further that the equipment is being operated on alternative fuel.

(f) Based on annual credit activity report information, as described in § 490.508 of this subpart, DOE shall allocate two alternative fueled vehicle credits for the first $50,000, and one

alternative fueled vehicle credit for every $25,000 thereafter, that a fleet or covered person invests, as described in § 490.503(c), in emerging technology, provided that the maximum number of credits under this paragraph (f) shall not exceed five for the model year, and provided further that the amount for which credit is allocated under this paragraph has not been the basis for credit allocation under paragraphs (a), (b), or (d) of this section.

(g) A fleet or covered person may aggregate the amount of money invested in alternative fuel infrastructure, alternative fuel non-road equipment, and emerging technology such that funds from multiple categories may be used to achieve the applicable threshold for the purpose of earning an alternative fueled vehicle credit, so long as no funds are aggregated from a category for which the fleet has already been allocated the maximum number of credits allowed for that category, as set forth in paragraphs (e) and (f) of this section.

■ 19. Section 490.505 is revised to read as follows:

§ 490.505 Use of alternative fueled vehicle credits.

At the request of a fleet or covered person in an annual report under subpart C or D of this part, DOE shall treat each banked alternative fueled vehicle credit as the acquisition of an alternative fueled vehicle that the fleet or covered person is required to acquire under this part. Each full credit shall count as the acquisition of one alternative fueled vehicle in the model year for which the fleet or covered person requests that the credit be applied.

■ 20. Section 490.506 is revised to read as follows:

§ 490.506 Credit accounts.

(a) DOE shall establish a credit account for each fleet or covered person that obtains an alternative fueled vehicle credit.

(b) DOE shall send to each fleet and covered person an annual credit account balance statement after the receipt of its credit activity report under § 490.508.

■ 21. Section 490.507 is revised to read as follows:

§ 490.507 Alternative fueled vehicle credit transfers.

(a) Any fleet or covered person that is required to acquire alternative fueled vehicles may transfer an alternative fueled vehicle credit to—

(1) A fleet that is required to acquire alternative fueled vehicles; or

(2) A covered person subject to the requirements of this part, if the transferor provides certification to the covered person that the credit represents a vehicle that operates solely on alternative fuel.

(b) Proof of credit transfer may be on a form provided by DOE, or otherwise in writing, and must include dated signatures of the transferor and transferee. The proof should be received by DOE within 30 days of the transfer date at the Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy, EE–2G, 1000 Independence Avenue SW, Washington, DC 20585–0121, or such other address as DOE publishes on its Web site or in the **Federal Register**.

■ 22. Section 490.508 is added to subpart F to read as follows:

§ 490.508 Credit activity reporting requirements.

(a) A fleet or covered person that either applied one or more banked credits towards its alternative fueled vehicle acquisition requirements pursuant to § 490.505, seeks the allocation of alternative fueled vehicle credits under this subpart, or participated in a credit transfer under § 490.507 must include a credit activity report with its annual report submitted under subpart C or D of this part.

(b) The credit activity report must include the following information:

(1) Number of alternative fueled vehicle credits applied towards acquisition requirements pursuant to § 490.505;

(2) Number of alternative fueled vehicle credits requested for:

(i) Light duty alternative fueled vehicles acquired in excess of the required acquisition number;

(ii) Alternative fueled vehicles with a gross vehicle weight rating of more than 8,500 pounds acquired in excess of the required acquisition number;

(iii) Medium- or heavy-duty fuel cell electric vehicles that are not alternative fueled vehicles, acquired in excess of the required acquisition number;

(iv) Medium- or heavy-duty electric vehicles that are not alternative fueled vehicles, acquired in excess of the required acquisition number;

(v) Light duty alternative fueled vehicles acquired in model years before the first model year the fleet or covered person is required to acquire light duty alternative fueled vehicles by this part;

(vi) Alternative fueled vehicles with a gross vehicle weight rating of more than 8,500 pounds acquired in model years before the first model year the fleet or covered person is required to acquire light duty alternative fueled vehicles by this part;

(vii) The acquisition of light duty hybrid electric vehicles that are not alternative fueled vehicles;

(viii) The acquisition of light duty plug-in electric drive vehicles that are not alternative fueled vehicles;

(ix) The acquisition of light duty fuel cell electric vehicles that are not alternative fueled vehicles; and

(x) The acquisition of neighborhood electric vehicles.

(3) Number of alternative fueled vehicle credits, in whole number values, requested for each of the following:

(i) Investment in alternative fuel infrastructure;

(ii) Investment in alternative fuel non-road equipment; and

(iii) Investment in an emerging technology.

(4) For each vehicle that is not an alternative fueled vehicle and for which credit is requested under paragraphs (b)(2)(iii), (iv), (vii), (viii), (ix), or (x) of this section:

(i) Vehicle make and model;

(ii) Model year;

(iii) Vehicle Identification Number; and

(iv) Acquisition date.

(5) For investment in alternative fuel infrastructure, supporting documentation and a written statement, certified by a responsible official of the fleet or covered person, indicating or providing:

(i) The model year or period in which the investment was made;

(ii) The amount of money invested by the fleet or covered person and to whom the money was provided;

(iii) The physical location(s) (address and zip code) and a detailed description of the alternative fuel infrastructure, including the name and address of the construction/installation company (where appropriate), whether the infrastructure is publicly accessible, and the type(s) of alternative fuel offered; and

(iv) The date on which the alternative fuel infrastructure became operational.

(6) For investment in alternative fuel non-road equipment, supporting documentation and a written statement, certified by a responsible official of the fleet or covered person, indicating or providing:

(i) The model year or period in which the investment was made;

(ii) The amount of money invested by the fleet or covered person and to whom the money was provided; and

(iii) A detailed description of the alternative fuel non-road equipment, including the name and address of the manufacturer, the type(s) of alternative

fuel on which the equipment is capable of being operated, a certification that the equipment is being operated on that alternative fuel, the date on which the fleet or covered person purchased the equipment, and the date on which it was put into operation.

(7) For investment in an emerging technology, supporting documentation and a written statement, certified by a responsible official of the fleet or covered person, indicating or providing:

(i) The model year or period in which the investment was made;

(ii) The amount of money invested by the fleet or covered person and to whom the money was provided;

(iii) A certification that the emerging technology's acquisition is not included as a new light duty alternative fueled vehicle acquisition in the fleet or covered person's annual report;

(iv) A certification that the emerging technology's acquisition is not included in paragraph (b)(2) of this section and the amount invested is not included in the amounts submitted under paragraph (b)(5)(ii) or (b)(6)(ii) of this section; and

(v) A detailed description of the emerging technology, including the name and address of the manufacturer, the date on which the fleet or covered person purchased the emerging technology, and the date on which it was put it into operation.

(8) The total number of alternative fueled vehicle credits requested by the fleet or covered person, calculated by adding the two subtotals under paragraphs (b)(2) and (b)(3) of this section and then rounding the aggregate figure to the nearest whole number; in rounding to the nearest whole number, any fraction equal to or greater than one half shall be rounded up and any fraction less than one half shall be rounded down.

(9) Purchases of alternative fueled vehicle credits:

(i) Credit source; and

(ii) Date of purchase;

(10) Sales of alternative fueled vehicle credits:

(i) Credit purchaser; and

(ii) Date of sale.

Subpart I—[Amended]

■ 23. Section 490.804, paragraph (c) is revised to read as follows:

§ 490.804 Eligible reductions in petroleum consumption.

* * * * *

(c) *Rollover of excess petroleum reductions.* (1) Upon approval by DOE, petroleum fuel use reductions achieved by a fleet in excess of the amount required for alternative compliance in a previous model year may be applied towards the petroleum fuel use reduction requirement under § 490.803(a) in a model year for which a waiver is granted and for which the fleet experiences a shortfall.

(2)(i) A fleet seeking to roll over for future use the petroleum fuel use reductions that it achieved in excess of the amount required for alternative compliance in a particular model year must make a written request to DOE as part of the fleet's annual report required under § 490.807 for the model year in which the excess reductions were achieved.

(ii) Following receipt of a request under paragraph (c)(2)(i) of this section, DOE will notify the requesting fleet of the amount of excess petroleum fuel use reductions that DOE has approved for rollover and potential application towards the petroleum fuel use reduction requirement in a future model year.

(iii) A fleet seeking to apply excess petroleum fuel use reductions rolled over pursuant to paragraph (c)(2)(ii) of this section in a model year for which a waiver is granted and for which the fleet experiences a shortfall in achieving the petroleum fuel use reduction requirement under § 490.803(a) must make a written request to DOE as part of the fleet's annual report required under § 490.807. The written request must specify the amount of the rollover reductions (in GGE) the fleet wishes to have applied and the total balance of rollover reductions (in GGE) the fleet possesses.

(3)(i) In considering a written request to apply rollover reductions under paragraph (c)(2)(iii) of this section, DOE may seek from the fleet additional information about the fleet and its operations.

(ii) Upon approving a request to apply rollover reductions, DOE will apply the approved rollover reductions only to the extent that other reductions in petroleum consumption through any of the means set forth in paragraphs (a) and (b) of this section were not reasonably achievable.

(4) Excess petroleum reductions are not tradable.

* * * * *

■ 24. Section 490.805 is amended by removing paragraph (b)(3) and revising paragraph (b)(2) to read as follows:

§ 490.805 Application for waiver.

* * * * *

(b) * * *

(2) A complete waiver application must be received by DOE no later than July 31 prior to the model year for which a waiver is sought.

* * * * *

■ 25. Section 490.809 is revised to read as follows:

§ 490.809 Violations.

If a State or covered person that received a waiver under this subpart fails to comply with the petroleum motor fuel reduction or reporting requirements of this subpart, DOE will revoke the waiver and may impose on the State or covered person a penalty under subpart G of this part. A State or covered person whose waiver has been revoked by DOE is precluded from requesting an exemption under § 490.204 or § 490.307 from the vehicle acquisition mandate for the model year of the revoked waiver.

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