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Rules and Regulations

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

RIN 3245–AG59

Advisory Small Business Size Decisions

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: This rule implements provisions of the National Defense Authorization Act of 2013 (NDAA) pertaining to small business size. This rule amends the U.S. Small Business Administration's (SBA or Agency) program regulations to implement statutory provisions establishing limitations of liability from fraud penalties for individuals or firms that misrepresent business concerns as being small for purposes of Federal procurement opportunities if they acted in good faith reliance upon small business status advisory opinions received from Small Business Development Centers (SBDCs) or Procurement Technical Assistance Centers (PTACs). The rule also amends SBA's regulations to establish the criteria small business status advisory opinions must meet in order to be deemed adequate and specify the review process for such opinions. Finally, the rule further amends SBA's regulations to update the circumstances under which SBA may initiate a formal size determination.

DATES: This rule is effective August 10, 2015.

FOR FURTHER INFORMATION CONTACT: Brenda Fernandez, U.S. Small Business Administration, Office of Policy, Planning & Liaison, 409 Third Street SW., 8th Floor, Washington, DC 20416, (202) 205–7337, *brenda.fernandez@sba.gov.*

SUPPLEMENTARY INFORMATION: On January 2, 2013, Congress amended the Small Business Act to provide that the penalties created under 15 U.S.C. 645(d) for misrepresentation of a firm as a small business concern do not apply to individuals or firms that act in good faith reliance upon small business status advisory opinions they receive from SBDCs or PTACs. Additionally, the Small Business Act was amended to give responsibility for reviewing, accepting, or rejecting these small business status advisory opinions to SBA's Office of General Counsel. Finally, the Small Business Act was further amended to require that SBA promulgate regulations to implement this provision no later than 270 days after the date of passage of the statutory amendment.

SBA published a proposed rule regarding these statutory provisions in the **Federal Register** on June 25, 2014 (79 FR 35963), inviting the public to submit comments on or before August 25, 2014.

Summary of Comments and SBA's Responses

SBA received and considered sixteen comments on the proposed rule. Twelve commenters opposed the creation of the limitation on liability in general and urged SBA not to adopt the proposed rule. As noted in the preamble to the proposed rule, Congress has mandated via legislation that SBA establish this limitation on liability protection via regulation. With this rule, SBA is implementing that legislative mandate. The remaining comments, as well as SBA's responses to them, are discussed below.

Requiring SBDCs/PTACs To Provide Advisory Opinions

Two comments urged SBA to change the approach taken under the proposed rule and require SBDCs and PTACs to provide small business status advisory opinions to interested parties rather than giving them the authority to do so. SBA notes that the statutory provision does not mandate that SBDCs and PTACs perform such services. As such, SBA believes that the approach taken in the proposed rule is consistent with the authorizing legislation. Moreover, SBA notes that the PTAC program is administered by the Department of Defense, not SBA. Absent express statutory authority, SBA believes it lacks the power to impose performance mandates on a program administered by another agency.

Additionally, with regard to SBDCs, 15 U.S.C. 648(a)(3)(A) requires SBA to consult with the association representing SBDC grant recipients prior to defining the scope of activities conducted under the SBDC program. That provision further obligates SBA to develop, in conjunction with that association, the rules governing the general operations and administration of the SBDC program. Therefore, there are statutory obstacles to SBA unilaterally requiring SBDCs to provide these new advisory opinion services. Such new performance requirements may only be established following the consultation required by 15 U.S.C. 648(a)(3)(A), which the Agency conducts with the association on an annual basis. It is SBA's intention to address the topic of small business status advisory opinions during the next annual consultation.

Liability of SBDCs/PTACs

SBA received two comments regarding the potential liability of SBDCs or PTACs that issue small business status advisory opinions to firms that subsequently turn out to be other than small. SBA notes that § 1681 of the enabling legislation expressly provides that an SBDC or PTAC that issues a positive advisory opinion will not be liable to that business concern in the event SBA subsequently declines to accept the opinion. In cases where an SBDC or PTAC issues a negative advisory opinion for a business concern that is subsequently determined to be small, the issue of whether section 1681's grant of immunity from liability would apply in those circumstances is one that SBA must leave to the courts to determine.

With regard to the potential liability of an SBDC or PTAC to third parties for advisory opinion it issued, while one commenter suggested that section 1681 of the enabling legislation might also immunize an SBDC or PTAC from liability in those circumstances, SBA must similarly defer to the courts to determine the scope of the shield afforded under section 1681.

Inherently Governmental Function

Two commenters objected to the use of SBDCs and PTACs as issuers of small business status advisory opinions on the grounds that this approach will result in the impermissible delegation of an

inherently governmental function. SBA notes that the legislation requires the use of SBDCs and PTACs in this role and the Agency is merely implementing that scheme. Moreover, SBA has historically permitted outside organizations to act as private certifiers for its contracting programs. Where private or outside certifiers are utilized, ultimate decisionmaking authority as to whether a firm qualifies for participation in its contracting programs, including small business set-asides, still rests with SBA. In the case of small business status advisory opinions, the regulations provide that SBA will review and either accept or reject. As such, SBA does not believe the issuance of small business status advisory opinions by SBDCs and PTACs will lead to the delegation of an inherently governmental function. In addition, the firm's size may always be challenged through a size protest in connection with an actual procurement.

Evidence of Business Size

One commenter requested that SBA provide more detailed guidance and specific examples regarding the type of evidence a firm could provide to an SBDC or PTAC to adequately document its compliance with the size standards. SBA concurs with this suggestion and has amended § 121.109(b)(4) accordingly.

Qualifications of SBDC or PTAC Employees Issuing Advisory Opinions

One commenter alleged that the phrase ''counselor or similarly qualified employee'' as used in § 121.109(b)(3) may create uncertainty or confusion on the part of SBDCs or PTACs. However, there was insufficient information provided for SBA to create an alternative term to describe these individuals. SBA does agree with the suggestion that it would be beneficial to provide periodic training on SBA's size rules to SBDCs and PTACs to enable them to better carry out their roles under this rule. SBA is currently exploring the most effective method of accomplishing that objective.

Timeframe for Issuing Advisory Opinions

One commenter suggested that SBA impose a deadline on the length of time SBDCs and PTACs are allowed to take when preparing small business status advisory opinions. SBA has no reason to doubt the capability or responsiveness of SBDCs and PTACs in this area. SBA notes that the performance of SBDCs and PTACs in carrying out their duties is already being monitored and policed by the program offices charged with administering their grant agreements. As such, the responsiveness and timeliness of SBDCs and PTACs will be taken into account during the regular grant recipient performance review process and any shortcomings on their parts will be addressed during that process. However, SBA does reserve the right to impose such a deadline if circumstances subsequently demonstrate a need for it.

Review of Advisory Opinions

SBA concurs with one commenter's request that firms which receive small business status advisory opinions holding that they are other than small be permitted to seek review of those determinations. Therefore, SBA is amending 13 CFR 121.1001 to permit a firm that receives a negative advisory opinion (*i.e.,* an opinion concluding that it is other than small) from an SBDC or PTAC to request that SBA conduct a formal size determination of it.

Furthermore, with regard to the review of advisory opinions rejected by SBA, it is SBA's intention to immediately initiate a formal size determination for each firm that is the subject of an advisory opinion that is rejected by the Agency. Affected firms will thus be able to avail themselves of the standard appeals process set forth in 13 CFR 121.1101.

Expiration of Advisory Opinions

One commenter suggested that small business status advisory opinions issued by SBDCs and PTACs should expire, or that the remoteness in time from when they were issued should be taken into account when determining whether they are entitled to avail themselves of the safe harbor provision. SBA rejects this suggestion. The enabling statute does not include a provision calling for the expiration of advisory opinions and does not envision that the safe harbor protection is something that should be switched on or off. As the statute makes clear, firms that receive positive advisory opinions are automatically entitled to protection from liability. Of course, a firm's size status can be protested in connection with an actual procurement.

Moreover, such an approach would be inconsistent with the treatment given formal size determinations, which do not expire absent a material change in circumstances. See 13 CFR 121.1009. However, SBA does believe that § 121.109 of the new rule should make clear that a firm is no longer justified in relying upon a positive advisory opinion where it has experienced a material change in circumstances with regard to its average annual receipts or its number of employees. SBA has therefore amended § 121.109 accordingly.

Other Comments

In addition to the comments received from the public, SBA also received comments during its internal review cycle which recommended that the Agency simplify and streamline the process of issuing small business status advisory opinions by requiring SBDCs and PTACs to utilize the same form SBA relies upon when making size determinations. These internal commenters also suggested that SBA clarify that SBDCs and PTACs must take into account the principles of affiliation established under 13 CFR 121.103 when issuing advisory opinions. SBA concurs with these recommendations and has therefore amended § 121.109 accordingly.

Compliance With Executive Orders 12866, 12988, 13132, 13175, 13563, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Paperwork Reduction Act (44 U.S.C., Chapter 35)

Executive Order 12866

The Office of Management and Budget (OMB) has determined that this final rule is not a significant regulatory action under Executive Order 12866. This is also not a ''major'' rule under the Congressional Review Act, 5 U.S.C. 801, *et seq.*

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

For purposes of 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 purpose of Executive Order 13132, Federalism, SBA determines that this final rule has no federalism implications warranting preparation of federal assessment.

Executive Order 13175

For purposes of Executive Order 12175, SBA has determined that this final rule will not will not have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and

Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. Therefore, for the purpose of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, SBA determines that this final rule does not require consultations with tribal officials or warrant the publication of a Tribal Summary Impact Statement.

Executive Order 13563

As part of its ongoing efforts to engage stakeholders in the development of its regulations, SBA consulted with representatives from the contracting community regarding the intent of this rule and the various components related to it. No concerns or comments were raised that needed to be addressed in this rule.

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

At the proposed rule stage SBA concluded this rule imposed no reporting or recordkeeping requirements. However, during review of this final rule, SBA realized it erred in its conclusion. Specifically, as outlined in section 121.109(b), in order to obtain an advisory opinion on their size status, concerns must submit to SBDCs and PTACs information to support their claims, including payroll records, time sheets, federal income tax returns, or other documentation that would show concerns annual receipts or number of employees. SBDCs and PTACS will use submit this information to SBA as basis for their opinions. The information to concerns will submit to SBDCs and PTACs is the same information that concerns currently submit to SBA for a size determination using SBA Form 355, *Information for Small Business Size Determination.* Therefore, SBA will amend this information collection to include this additional use and submit same to OMB for approval.

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

SBA has determined that this rule may have a significant impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601–612. In accordance with 5 U.S.C. 603(b), SBA sets forth a regulatory flexibility analysis (RFA) of this final rule addressing the following topics: (1) The legal basis, need for, and objective of the rule; (2) a description and estimate of the number of small entities to which the rule will apply; (3) the projected reporting, record keeping, and other compliance requirements of the rule; (4) the relevant Federal rules which may duplicate, overlap or conflict with the rule; and (5) any significant alternatives that would allow the Agency to accomplish its regulatory objectives while minimizing the impact on small entities.

1. *What is the legal basis, need for, and objective of the rule?* Pursuant to section 1681 of Public Law 112–239, SBA is statutorily required to publish a regulation granting an exemption from the misrepresentation penalties imposed under 15 U.S.C. 645(d) in cases where a party's erroneous claim to small business status stems from its good faith reliance upon an advisory opinion issued by an SBDC or PTAC. SBA is also obligated under § 1681 to define via regulation what constitutes an adequate advisory opinion and to review and accept or reject all advisory opinions issued by SBDCs and PTACs. In addition to giving effect to these statutory mandates, the final rule also establishes the procedures and timeline by which SBA will review advisory opinions.

2. *What is SBA's description and estimate of the number of small entities to which the rule will apply?* Because SBA's programs do not apply to small governmental jurisdictions or small organizations, only small businesses will be affected by this final rule. Additionally, the final rule will not apply to all small businesses generally, but only to those firms that represent themselves as being small for purposes of federal procurement opportunities.

The limitation on liability provision of the final rule will only affect those firms that incorrectly claim status as small business concerns after obtaining small business status advisory opinions from SBDCs or PTACs. In Fiscal Year 2014, SBA determined that approximately 137 firms that had represented themselves as being small for purposes of federal procurement opportunities were not small. Most of these cases did not involve fraud, but instead were the result of errors or misunderstandings of the size regulations. To date, SBA is unaware of any firms being penalized under 15 U.S.C. 645(d) for fraudulently misrepresenting themselves as small business concerns. Therefore, SBA anticipates that the limitation on liability provision of the final rule will impact very few concerns.

With regard to the small business status advisory opinion provision of the final rule, SBA notes that neither SBDCs nor PTACs are required to provide such opinions under the language of the statute. It is currently unknown how many SBDCs and PTACs will elect to provide such services, particularly given that no additional funding will be awarded to them to cover the cost of these services. Moreover, it is unclear how much demand there will be for such services from those SBDCs and PTACs that offer them. While it is thus impossible to gauge the number of small businesses that will obtain these services, SBA anticipates that very few concerns will be affected by the small business status advisory opinion provision of the final rule.

3. *What are the projected reporting, record keeping, and other compliance requirements of the rule and an estimate of the classes of small entities which will be subject to the requirements?* There would be no additional reporting or recordkeeping requirements imposed by the rule, but there would be certain minor compliance requirements. Businesses that believe they are small and that wish to receive advisory opinions to that effect from SBDCs or PTACs would be required to provide information documenting the basis for that belief to SBDCs or PTACs and attest to its accuracy.

4. *What are the relevant Federal rules which may duplicate, overlap or conflict with the rule?* The Federal Acquisition Regulation (FAR) defers to and incorporates the substance of the provisions set forth in SBA's regulations for issues pertaining to business size. To the extent the FAR is inconsistent with size rules implemented by SBA, the FAR would need to be changed to be consistent.

5. *Are there any significant alternatives that would allow the Agency to accomplish its regulatory objectives while minimizing the impact on small entities?* SBA has considered a number of alternatives to the final rule. One alternative SBA has considered would have permitted firms to simply self-certify to SBDCs or PTACs that they are small. Another alternative SBA considered would have had the General Counsel review the SBDC or PTAC advisory opinions rather than the Associate General Counsel, Office of Procurement Law. SBA has not incorporated the first alternative in the final rule because it would render any advisory opinion pro forma and would not provide the Agency with any basis for accepting or rejecting the opinion. With regard to the second alternative, SBA did not propose it given the substantial time demands already placed upon the General Counsel. SBA believes that delegating this responsibility to the Associate General Counsel, Office of Procurement Law would permit the Agency to provide a

quicker turnaround time for reviewing advisory opinions and would take advantage of the established subject matter expertise of that official.

List of Subjects in 13 CFR Part 121

Administrative practice and procedure, Reporting and recordkeeping requirements, and Small Businesses.

For the reasons stated in the preamble, SBA amends 13 CFR part 121 as follows:

PART 121—SMALL BUSINESS SIZE REGULATIONS

■ 1. The authority citation for part 121 continues to read as follows:

Authority: 15 U.S.C. 632, 634(b)(6), 662, and 694a(9).

■ 2. Amend 121.108 by revising the section heading and adding paragraph (e)(4) to read as follows:

§ 121.108 What are the penalties for misrepresentation of size status?

* * * * *

(e) * * *

(4) *Limitation on Liability.* An individual or business concern will not be subject to the penalties imposed under 15 U.S.C. 645(a) where it acted in good faith reliance on a small business status advisory opinion accepted by SBA under § 121.109.

§ 121.109 [Redesignated as § 121.110]

■ 3. Redesignate § 121.109 as § 121.110.

■ 4. Add new § 121.109 to read as follows:

§ 121.109 What is a small business status advisory opinion?

(a) *Defined.* A small business status advisory opinion is a written opinion issued by either a Small Business Development Center (SBDC) operating under part 130 of this chapter or a Procurement Technical Assistance Center (PTAC) operating under 10 U.S.C. chapter 142 which concludes that a firm is entitled to represent itself as a small business concern for purposes of federal government procurement opportunities.

(b) *Submission.* An SBDC or PTAC must submit a copy of each small business status advisory opinion it issues to the following Agency official for review: Associate General Counsel, Office of Procurement Law, U.S. Small Business Administration, 409 Third Street SW., Washington, DC 20416 or by fax to (202) 205–6390 marked Attn: Small Business Status Advisory Opinion. A small business status advisory opinion must:

(1) Provide a written analysis explaining the reasoning underlying the SBDC or PTAC's determination that the covered concern, along with its affiliates, either does or does not exceed the size standard(s). This analysis must be dated and signed by an SBDC or PTAC business counselor or similarly qualified individual.

(2) Include, as an attachment, a completed copy of an SBA Form 355 for the covered concern and its affiliates.

(3) Include, as an attachment, copies of the evidence (such as payroll records, time sheets, federal income tax returns, etc.) provided by the covered concern to the SBDC or PTAC clearly documenting its annual receipts and/or number of employees as those terms are defined by §§ 121.104 and 121.106.

(c) *Review.* Unless a referral is made under paragraph (e) of this section, SBA will decide within 10 business days of receiving a small business status advisory opinion to accept or reject it based on its consistency with part 121. SBA will provide written notification of that decision to the SBDC or PTAC that issued the small business status advisory opinion as well as to the covered concern.

(d) *Reliance.* A concern that receives a small business status advisory opinion holding that it does not exceed the applicable size standard(s) may rely upon that determination for purposes of responding to Federal procurement opportunities from the date it is issued unless and until that advisory opinion is rejected by SBA in accordance with paragraph (c) of this section or the concern undergoes a significant change in its ownership, management, or other factors bearing on its status as a small business concern. However, the firm's size may be protested by interested parties in connection with a specific procurement.

(e) *Referral for size determination.* Nothing in this section precludes the Associate General Counsel, Office of Procurement Law from requesting a formal size determination for a concern that is the subject of a small business status advisory opinion pursuant to § 121.1001(b)(9).

(f) *Penalties for misrepresentation*—(1) *Suspension or debarment.* The SBA suspension and debarment official may suspend or debar a person or concern for misrepresenting a concern's size for purposes of obtaining a small business size status advisory opinion pursuant to the procedures set forth in 48 CFR subpart 9.4.

(2) *Civil penalties.* Persons or concerns are subject to severe penalties under the False Claims Act, 31 U.S.C. 3729–3733, and under the Program Fraud Civil Remedies Act, 331 U.S.C. 3801–3812, and any other applicable laws.

(3) *Criminal Penalties.* Persons or concerns are subject to severe criminal penalties for knowingly misrepresenting the small business size status of a concern in connection with procurement programs pursuant to section 16(d) of the Small Business Act, 15 U.S.C. 645(d), as amended, 18 U.S.C. 1001, 18 U.S.C. 287, and any other applicable laws. Persons or concerns are subject to criminal penalties for knowingly making false statements or misrepresentations for the purpose of influencing any actions of SBA pursuant to section 16(a) of the Small Business Act, 15 U.S.C. 645(a), as amended, including failure to correct ''continuing representations'' that are no longer true.

■ 4. Amend § 121.1001 by revising paragraph (b)(9), redesignating paragraph (b)(10) as paragraph (b)(11), and adding new paragraph (b)(10) to read as follows:

§ 121.1001 Who may initiate a size protest or request a formal size determination?

* * * * *

(b) * * *

(9) For other purposes related to protecting the integrity of the Federal procurement process, including validating that firms listed in the System for Award Management database are small, the Government Contracting Area Director or the Director, Office of Government Contracting may initiate a formal size determination when sufficient information exists that calls into question a firm's small business status. The current date will be used to determine size, and SBA will initiate the process to remove from the database the small business designation of any firm found to be other than small.

(10) For purposes of determining compliance with small business requirements for firms relying upon small business status advisory opinions, the Associate General Counsel, Office of Procurement Law may request a formal size determination. Additionally, any firm that is the subject of a small business status advisory opinion holding that it is other than small may request a formal size determination.

* * * * *

Dated: January 28, 2015.

Maria Contreras-Sweet,

Administrator.

[FR Doc. 2015–02746 Filed 2–10–15; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR Parts 7, 163, and 178

[USCBP–2014–0001; CBP Dec. 15–04]

RIN 1515–AD97

Documentation Related to Goods Imported From U.S. Insular Possessions

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

ACTION: Final rule.

SUMMARY: This final rule amends the U.S. Customs and Border Protection (CBP) regulations to eliminate the requirement that a customs official at the port of export verify and sign CBP Form 3229, Certificate of Origin for U.S. Insular Possessions, and to require only that the importer present this form, upon CBP's request, rather than with each entry as is currently required. The importer is still required to maintain CBP Form 3229 in its possession or may be subject to the assessment of a recordkeeping penalty if it cannot be produced.

DATES: Effective March 13, 2015.

FOR FURTHER INFORMATION CONTACT: Seth Mazze, Trade Agreements Branch, Trade Policy and Programs, Office of International Trade, (202) 863–6567, *seth.mazze@cbp.dhs.gov.*

SUPPLEMENTARY INFORMATION:

Background

On January 14, 2014, U.S. Customs and Border Protection (CBP) published a notice of proposed rulemaking (NPRM) in the **Federal Register** (79 FR 2395) proposing to amend title 19 of the Code of Federal Regulations (19 CFR) to eliminate the requirement that a customs official at the port of export verify and sign CBP Form 3229, Certificate of Origin for U.S. Insular Possessions, and to require only that the importer present this form, upon CBP's request, rather than with each entry as is currently required. Goods imported into the customs territory of the United States from an insular possession may be eligible for duty-free treatment under the provisions of General Note 3(a)(iv) of the Harmonized Tariff Schedule of the United States (HTSUS) (19 U.S.C. 1202). In addition to the specific requirements set forth in General Note 3(a)(iv), HTSUS, the CBP regulations at part 7 of title 19 of the Code of Federal Regulations (19 CFR part 7) address insular possessions.

This rule also adopts nonsubstantive, editorial amendments to update the outdated name of the Form which appears in the list of records and information required for the entry of merchandise in the Appendix to part 163 (commonly referred to as the ''(a)(1)(A)'' list) by amending the listing within section IV for section 7.3(f) to reflect the current name of the form from ''CF 3229'' to ''CBP Form 3229''. Lastly, this rule makes editorial changes to the sample declarations made by the shipper in the insular possession and by the importer in the United States by updating the year from the 20th Century, ''19__.'' to the 21st Century, ''20__'' in 19 CFR 7.3(f)(2).

The NPRM solicited for public comments on the proposed rulemaking. The public comment period closed on March 17, 2014.

Discussion of Comments

Five comments were received in response to the solicitation of public comments in the proposed rule. All commenters expressed support for the proposed amendments indicating an expected savings in time and cost as a result of ''streamlining'' the process by eliminating the requirement that a customs official at the port of export verify and sign CBP Form 3229, Certificate of Origin for U.S. Insular Possessions. In addition, two commenters stated that potential recordkeeping penalties would be an effective deterrent against false claims.

Conclusion

After review of the comments, and in light of the fact that all comments submitted were positive, CBP has decided to adopt as final the proposed rule published in the **Federal Register** (79 FR 2395) on January 14, 2014. In accordance with Executive Orders 13563 and 13610, this rule streamlines CBP's regulations by lessening the burden in achieving its regulatory objectives.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule is not a ''significant regulatory action,'' under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed this regulation.

Regulatory Flexibility Act

This section examines the impact on small entities as required by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement and Fairness Act of 1996. A small entity may be a small business (defined as any independently owned and operated business not dominant in its field that qualifies as a small business per the Small Business Act); a small not-for-profit organization; or a small governmental jurisdiction (locality with fewer than 50,000 people).

This final rule removes the requirements that an importer present a completed CBP Form 3229 with each shipment from an insular possession. Once the rule is effective, the importer will only be required to present a completed CBP Form 3229 upon CBP's request. The importer will still be required to maintain a completed CBP Form 3229 in its records in accordance with applicable record keeping requirements. In addition to this rule's impact on importers, this rule removes the requirement that the shipper of a good from an insular possession obtain a customs official's signature and date of signature in order to complete a CBP Form 3229.

In the NPRM, using internal databases, CBP found that from fiscal year (FY) 2007 through FY 2012, on average, there have been approximately 3,545 shipments of goods each year, imported by approximately 135 importers, from insular possessions (see Table 1). CBP has since obtained an additional year of data (FY 2013). By incorporating these data CBP estimates, on average, the number of shipments of goods and the number of importers each year are 3,256 and 126, respectively.

Any importer that imports goods from an insular possession will need to comply with this rule. Therefore, CBP believes that this rule has an impact on a substantial number of small importers. Although this rule may have an effect on a substantial number of importers, CBP believes that the economic impact of this rule will not be significant. Because importers will be required to present a completed CBP Form 3229 to CBP only upon request by a CBP officer rather than with each shipment from an insular possession, CBP estimates that an average importer may, at a maximum, print approximately 26 fewer CBP Form 3229s annually (this value

has not changed with the additional year of data). While this would be a positive economic impact, CBP believes that this maximum benefit realized will be negligible.

TABLE 1—COMPLETED CBP FORMS 3229

Fiscal year	Importers	Completed 3229s
2007	191	7,258
2008	188	4,980
2009	136	3,210
2010	97	2,183
2011	110	1,897
2012	89	1,744
2013	72	1,518
Average	*126*	*3,256*

Source: Internal CBP databases.

As noted previously, CBP has found that over the last seven fiscal years, there have been an average of 3,256 shipments a year of goods to the United States from insular possessions (see Table 1). Due to data limitations, however, CBP is unable to identify the number of shippers that ship these shipments to the United States. Any shipper that ships goods to the United States from an insular possession would need to comply with this rule. Therefore, CBP believes this rule has an impact on a substantial number of small shippers shipping goods from insular possessions. Although CBP believes this rule may affect a substantial number of shippers, CBP does not believe that this rule will have a significant impact on shippers. CBP estimates that it takes a shipper, on average, approximately one hour to obtain a customs official's signature and date of signature, in order to complete CBP Form 3229.[1] During the comment period for the proposed rule, one commenter (out of five total comments received) confirmed CBP's estimate of one hour to visit a customs official in order to complete CBP Form 3229. As such, CBP estimates that shippers shipping goods from an insular possession, including any small entities, will realize time burden reduction (*i.e.*, time savings) of one hour per shipment. In the NPRM, CBP estimated the average wage of a shipper's employee who is responsible for completing the form to be approximately $45.10 per hour. Using the latest figures from the Bureau of Labor Statistics, CBP now estimates that the wage of a shipper's employee who is responsible for CBP Form 3229 to be $47.86. Thus, CBP estimates that each shipper, including any small entities, will save approximately $47.86 per shipment. CBP does not believe a savings of $47.86 per shipment to be a significant economic impact.

Although CBP believes that a substantial number of small entities, both importers and shippers, may be affected by this rule, CBP does not believe that the economic impacts will be significant. CBP notes, however, that the economic impact of this rule is purely beneficial and will result in a small cost savings to both importers and exporters. CBP did not receive any comments during the NPRM that would contradict this conclusion. Accordingly, CBP certifies that this regulation will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The collections of information in this document along with proposed revisions to CBP Form 3229, Certificate of Origin, will be submitted for OMB review in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1651–0016. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

The collections of information in these regulations are contained in 19 CFR 7.3(f) and currently set forth in CBP Form 3229, Certificate of Origin. This information is required at the time of entry and is used by CBP to verify the goods are eligible for duty-free treatment under General Note 3(a)(iv), HTSUS.

The regulations and changes to CBP Form 3229 will reduce the estimated time burden on shippers by two minutes per completed form. Shippers currently spend an estimated 22 minutes completing CBP Form 3229, Certificate of Origin. The regulations and changes to CBP Form 3229 will reduce this time to an estimated 20 minutes to complete the form. The time savings comes as a result of the elimination of the customs officer signature requirement on the form.

The likely respondents are businesses which import from U.S. insular possessions. Such imports are predominantly petroleum, refined in St. Croix, U.S. Virgin Islands. Other such imports include tuna fish, watches, organic chemicals, and alcohol. The estimated average annual burden associated with the collection of information in this final rule is 746 hours.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503. A copy should also be sent to the Trade and Commercial Regulations Branch, Regulations and Rulings, Office of International Trade, U.S. Customs and Border Protection, 90 K Street NE., 10th Floor, Washington, DC 20229–1177.

Signing Authority

This document is being issued in accordance with 19 CFR 0.1(a)(1) pertaining to the Secretary of the Treasury's authority (or that of his delegate) to approve regulations related to certain customs revenue functions.

List of Subjects

19 CFR Part 7

American Samoa, Customs duties and inspection, Guam, Midway Islands, Puerto Rico, Wake Island.

19 CFR Part 163

Administrative practice and procedure, Customs duties and inspection, Exports, Imports, Reporting and recordkeeping requirements, Trade agreements.

[1] This time burden differs from Paperwork Reduction Act (PRA) burden because the PRA burden is for completing the form and does not account for travel time.

19 CFR Part 178

Administrative practice and procedure, Exports, Imports, Reporting and recordkeeping requirements.

Amendments to the CBP Regulations

For the reasons set forth above, parts 7, 163, and 178 of title 19 of the Code of Federal Regulations (19 CFR parts 7, 163, and 178) are amended as set forth below.

PART 7—CUSTOMS RELATIONS WITH INSULAR POSSESSIONS AND GUANTANAMO BAY NAVAL STATION

■ 1. The general and specific authority citations for part 7 continue to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1623, 1624; 48 U.S.C. 1406i.

■ 2. In § 7.3:

■ a. Paragraphs (b) introductory text, (d) introductory text, (e)(1) introductory text, and (e)(2) are amended by removing the word ''shall'' and adding in its place the word ''will''.

■ b. Paragraph (f)(1) is revised.

■ c. Paragraph (f)(2) introductory text is amended by removing the word ''shall'' and adding in its place the word ''must.''; and

■ d. Paragraphs (f)(2)(i) and (ii) are amended by removing the year designation ''19____'' wherever it appears and adding in its place the year designation ''20____''.

The revision reads as follows:

§ 7.3 Duty-free treatment of goods imported from insular possessions of the United States other than Puerto Rico.

* * * * *

(f) *Documentation.* (1) When goods are sought to be admitted free of duty as provided in paragraph (a)(1) of this section, an importer must have in his possession at the time of entry or entry summary a completed certificate of origin on CBP Form 3229, showing that the goods comply with the requirements for duty-free entry set forth in paragraph (a)(1) of this section. The importer must provide CBP Form 3229 upon request by the port director or his delegate. Except in the case of goods which incorporate a material described in paragraph (c)(3)(ii) of this section, a certificate of origin will not be required for any shipment eligible for informal entry under § 143.21 of this chapter or in any case where the port director is otherwise satisfied that the goods qualify for duty-free treatment under paragraph (a)(1) of this section.

* * * * *

PART 163—RECORDKEEPING

■ 3. The authority citation for part 163 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1484, 1508, 1509, 1510, 1624.

* * * * *

Appendix to Part 163 [Amended]

■ 4. In the Appendix to part 163, within section IV, the listing for § 7.3(f) is amended by removing the abbreviation ''CF'' and adding, in its place, the words ''CBP Form''.

PART 178—APPROVAL OF INFORMATION COLLECTION REQUIREMENTS

■ 5. The authority citation for part 178 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 1624; 44 U.S.C. 3501 *et seq.*

■ 6. In § 178.2, the table is amended by revising the listings for § 7.3 to read as follows:

§ 178.2 Listing of OMB control numbers.

19 CFR section	Description	OMB control No.
*	* * * * *	*
§ 7.3	Claim for duty-free entry of goods imported from U.S. insular possessions.	1651–0116
*	* * * * *	*

* * * * *

Dated: February 5, 2015.

R. Gil Kerlikowske,

Commissioner, U.S. Customs and Border Protection.

Timothy E. Skud,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 2015–02776 Filed 2–10–15; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 154

[USCG–1999–5150]

RIN 1625–AB37

Marine Vapor Control Systems; Correction

AGENCY: Coast Guard, DHS.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to the final regulations (RIN 1625–AB37) that were published in the **Federal Register** of Tuesday, July 16, 2013 (78 FR 42595). The regulations related to safety regulations for facility and vessel vapor control systems (VCSs).

DATES: Effective February 11, 2015.

FOR FURTHER INFORMATION CONTACT: If you have questions on this document, call or email Dr. Cynthia A. Znati, Office of Design and Engineering Standards, Hazardous Materials Division, U.S. Coast Guard; telephone 202–372–1412, email *HazmatStandards@uscg.mil.*

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections affect persons who wish to serve as persons in charge of VCS certification, and the applicability of VCS recertification requirements. In 33 CFR 154.2010 (g), the current wording inadvertently limits the class of persons who may serve as a person in charge of VCS certification to persons who were licensed as professional engineers on or before August 15, 2014. With the passage of time, the current wording thus would prevent the entry of younger persons into VCS certification. This was not our intention. As discussed in the preamble to the final rule, in ''Table 1—Discussion of Comments and Changes,'' 78 FR at 42599, our intention was to amend § 154.2010(g) to provide a one-year phase-in period for persons wishing to certify VCSs but not licensed as professional engineers as of the final rule's effective date, August 15, 2013. Accordingly, we now correct § 154.2010(g) to clarify that a professional engineering license of any date is acceptable for purposes of paragraph (g), but that for persons

wishing to be in charge of VCS certification, but not licensed as professional engineers on August 15, 2013, they had one year from that date to obtain their licenses.

In 33 CFR 154.2020 (b), the current wording inadvertently restricts the applicability of paragraph (b)'s recertification requirements to VCSs that were in operation prior to July 23, 1990. However, it is clear from the preamble to the final rule, in ''Table 1—Discussion of Comments and Changes,'' 78 FR at 42600, that we fully intended that newer VCSs also be recertified if they meet any of the conditions described in paragraphs (b)(1) through (b)(5). Nowhere in the NPRM or in the final rule did we suggest that recertification should be restricted to older VCSs. Accordingly, we now correct § 154.2020(b) to remove any reference to the July 23, 1990, break point.

Need for Correction

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

List of Subjects in 33 CFR Part 154

Alaska, Fire prevention, Hazardous substances, Incorporation by reference, Oil pollution, Reporting and recordkeeping requirements.

Accordingly, 33 CFR part 154 is corrected by making the following correcting amendments:

PART 154—FACILITIES TRANSFERRING OIL OR HAZARDOUS MATERIALS IN BULK

■ 1. The authority citation for part 154 continues to read as follows:

Authority: 33 U.S.C. 1225, 1231, 1321(j)(1)(C), (j)(5), (j)(6), and (m)(2); sec. 2, E.O. 12777, 56 FR 54757; Department of Homeland Security Delegation No. 0170.1. Subpart F is also issued under 33 U.S.C. 2735. Vapor control recovery provisions of Subpart P are also issued under 42 U.S.C. 7511b(f)(2).

■ 2. Revise paragraph (g) of § 154.2010 to read as follows:

§ 154.2010 Qualifications for acceptance as a certifying entity.

* * * * *

(g) The person in charge of VCS certification must be a licensed professional engineer in a U.S. State or territory. A person in charge of VCS certification who is not a licensed professional engineer on August 15, 2013 must obtain that license from a U.S. State or territory by August 15, 2014.

■ 3. Revise the introductory text of paragraph (b) of § 154.2020 to read as follows:

§ 154.2020 Certification and recertification—owner/operator responsibilities.

* * * * *

(b) A certified VCS or a Coast Guard-approved VCS must be recertified by a certifying entity under 33 CFR 154.2023 before it can—

* * * * *

Dated: February 5, 2015.

K. Cervoni,

Chief, Office of Regulations and Administrative Law, U.S. Coast Guard.

[FR Doc. 2015–02713 Filed 2–10–15; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[EPA–R03–OAR–2014–0525; FRL–9921–32–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Redesignation of the Harrisburg-Lebanon-Carlisle-York Nonattainment Areas to Attainment for the 1997 Annual and the 2006 24-Hour Fine Particulate Matter Standard; Correction

AGENCY: Environmental Protection Agency.

ACTION: Final rule; correcting amendment.

SUMMARY: This document corrects errors in the rule language of a final rule pertaining to the Commonwealth of Pennsylvania's requests to redesignate to attainment the Harrisburg-Lebanon-Carlisle and York nonattainment areas for the 1997 annual fine particulate matter ($PM_{2.5}$) national ambient air quality standard (NAAQS) and the Harrisburg-Lebanon-Carlisle-York 2006 24-hour $PM_{2.5}$ NAAQS nonattainment area, which was published in the **Federal Register** on Tuesday, December 8, 2014 (79 FR 72552).

DATES: This document is effective on February 11, 2015.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 814–2182 or by email at *quinto.rose@.epa.gov.*

SUPPLEMENTARY INFORMATION: On December 8, 2014, (79 FR 72552), the Environmental Protection Agency (EPA) published a final rulemaking action announcing the approval of Pennsylvania's requests to redesignate to attainment the Harrisburg-Lebanon-Carlisle and York nonattainment areas for the 1997 annual $PM_{2.5}$ NAAQS and the Harrisburg-Lebanon-Carlisle-York 2006 24-hour $PM_{2.5}$ NAAQS nonattainment area.

Need for Correction

As published, the final redesignation contains errors. EPA inadvertently added the word ''Moderate'' in the tables for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS. The intent of the final rule was to redesignate the Areas to attainment. Moderate is a classification for nonattainment areas. This action corrects the tables of 40 CFR part 81 for Pennsylvania's 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS.

List of Subjects in 40 CFR Part 81

Air pollution, National Parks, Wilderness areas.

Dated: January 28, 2015.

William C. Early,

Acting Regional Administrator, EPA Region III.

Accordingly, 40 CFR part 81 is corrected by making the following correcting amendments:

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

■ 1. The authority citation for part 81 continues to read as follows:

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

■ 2. In § 81.339:

■ a. The 1997 Annual $PM_{2.5}$ NAAQS table is amended by revising the entries for the Harrisburg-Lebanon-Carlisle, PA and York, PA Areas.

■ b. The 2006 24-Hour $PM_{2.5}$ NAAQS table is amended by revising the entry for the Harrisburg-Lebanon-Carlisle-York, PA Area.

The revisions read as follows:

§ 81.339 Pennsylvania.

* * * * *

PENNSYLVANIA—1997 ANNUAL $PM_{2.5}$ NAAQS

[Primary and secondary]

Designated area	Designation [a]		Classification	
	Date [1]	Type	Date [2]	Type
Harrisburg-Lebanon-Carlisle, PA:				
Cumberland County	12/08/14	Attainment.		
Dauphin County	12/08/14	Attainment.		
Lebanon County	12/08/14	Attainment.		
* * * *	*	*	*	*
York, PA:				
York County	12/08/14	Attainment.		
* * * *	*	*	*	*

[a] Includes Indian Country located in each county or area, except as otherwise specified.
[1] This date is 90 days after January 5, 2005, unless otherwise noted.
[2] This date is July 2, 2014, unless otherwise noted.

* * * * *

PENNSYLVANIA—2006 24-HOUR $PM_{2.5}$ NAAQS

[Primary and secondary]

Designated area	Designation [a]		Classification	
	Date [1]	Type	Date [2]	Type
* * * *	*	*	*	*
Harrisburg-Lebanon-Carlisle-York, PA:				
Cumberland County	12/08/14	Attainment.		
Dauphin County	12/08/14	Attainment.		
Lebanon County	12/08/14	Attainment.		
York County	12/08/14	Attainment.		
* * * *	*	*	*	*

[a] Includes Indian County located in each county or area, except as otherwise specified.
[1] This date is 30 days after November 13, 2009, unless otherwise noted.
[2] This date is July 2, 2014, unless otherwise noted.

* * * * *

[FR Doc. 2015–02857 Filed 2–10–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2013–0768; FRL–9921–89]

Pendimethalin; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of pendimethalin in or on multiple commodities which are identified and discussed later in this document. In addition, this regulation removes existing tolerances on fruit, citrus, group 10; fruit, pome, group 11; fruit, stone, group 12; garlic; leek; onion, bulb; onion, green; onion, welsh; shallot; strawberry; sunflower seed; and vegetable, fruiting, group 8, which are superseded by this action. Interregional Research Project Number 4 (IR–4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective February 11, 2015. Objections and requests for hearings must be received on or before April 13, 2015, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2013–0768, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Susan Lewis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is

not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

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

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

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

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

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2013–0768 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 April 13, 2015. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2013–0768, by one of the following methods:

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

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

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of Friday, February 21, 2014 (79 FR 9870) (FRL–9904–98), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 3E8212) by IR–4, IR–4 Project Headquarters, 500 College Road East, Suite 201 W, Princeton, NJ 08540. The petition requested that 40 CFR 180.361 be amended by establishing tolerances for residues of the herbicide pendimethalin, [*N*-(1-ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzenamine], and its metabolite, 4-[(1-ethylpropyl)amino]-2-methyl-3,5-dinitrobenzyl alcohol, calculated as the stoichiometric equivalent of pendimethalin, in or on berry, low growing subgroup 13–07G at 0.1 parts per million (ppm); fruit, citrus, group 10–10 at 0.1 ppm; fruit, pome, group 11–10 at 0.1 ppm; fruit, stone, group 12–12 at 0.1 ppm; hops, dried cones at 0.1 ppm; onion, bulb subgroup 3–07A at 0.1 ppm; onion, green subgroup 3–07B at 0.2 ppm; sunflower, subgroup 20B at 0.1 ppm; and vegetable, fruiting, group 8–10 at 0.1 ppm. That document referenced a summary of the petition prepared by BASF Corporation, the registrant, which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

III. Aggregate Risk Assessment and Determination of Safety

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

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

A. Toxicological Profile

EPA has evaluated the available toxicity database and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

Pendimethalin has low acute toxicity by the oral, dermal, or inhalation route of exposure. It is not an eye or skin irritant, and is not a skin sensitizer. The target organ is the thyroid. Thyroid toxicity in chronic and subchronic rat and mouse studies was manifested as alterations in thyroid hormones (decreased total T4, and T3, increased percent of free T4 and T3), increased thyroid weight, and microscopic thyroid lesions (including increased thyroid follicular cell height, follicular cell hyperplasia, as well as follicular cell adenomas). Due to these effects, the Agency required that a developmental thyroid assay be conducted to evaluate the impact of pendimethalin on thyroid hormones, structure, and/or thyroid hormone homeostasis during development. A developmental thyroid study was submitted and demonstrated that there is no potential thyroid toxicity following pre- and/or post-natal exposure to pendimethalin.

The points of departure (PODs) used for the chronic and short-term risk assessments were based on a 92-day thyroid function study in rats, a 56-day thyroid study in rats, and a 14-day intra thyroid metabolism study in rats. Due to several important quantitative dynamic differences between rats and humans with respect to thyroid function, the interspecies uncertainty factor (UF), which used to account for animal to human differences in toxicokinetics and toxicodynamics, was reduced to 3X for

the chronic and short-term risk assessments. A 10X interspecies UF was used in the acute risk assessment because the POD was based on an acute neurotoxicity study, not a thyroid study. Although a subchronic inhalation study was not available in the database, EPA determined that one is not needed at this time based on the following:

1. All relevant hazard and exposure information, including its low acute inhalation toxicity.

2. Its physical/chemical properties, including its low volatility.

3. The use of an oral POD that results in occupational and residential inhalation margin of exposure (MOE) (in the case of pendimethalin MOE = 30 based on thyroid POD).

There is no evidence that pendimethalin is a developmental, reproductive, neurotoxic, or immunotoxic chemical. There is no evidence of increased qualitative or quantitative susceptibility in the young. EPA classified pendimethalin as a ''Group C'', possible human carcinogen based on a statistically significant increased trend and pair-wise comparison between the high-dose group and controls for thyroid follicular cell adenomas in male and female rats. A non-quantitative approach (*i.e.,* non-linear, reference dose (RfD) approach) was used to assess cancer risk since mode-of-action studies are available to demonstrate that the thyroid tumors are due to a thyroid-pituitary imbalance, and also since pendimethalin was shown to be non-mutagenic in mammalian somatic cells and germ cells.

Specific information on the studies received and the nature of the adverse effects caused by pendimethalin as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies are discussed in the final rule published in the **Federal Register** of August 29, 2012 (77 FR 52240) (FRL–9360–5) and in ''Pendimethalin: Human Health Risk Assessment to Support New Use on Hops and Crop Subgroup Conversions/Expansions for Low Growing Berry Subgroup 13–07G, Onion, Bulb Subgroup 3–07A, Onion, Green Subgroup 3–07B, and Sunflower Subgroup 20B; Crop Group Expansions for Citrus Fruit, Group 10, Pome Fruit, Group 11, Stone Fruit, Group 12, and Fruiting Vegetable, Group 8,'' in docket ID number EPA–HQ–OPP–2013–0768.

B. Toxicological Points of Departure/Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological POD and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which the NOAEL and the LOAEL are identified. Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a RfD—and a safe MOE. For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm.*

A summary of the toxicological endpoints for pendimethalin used for human risk assessment is discussed in the final rule published in the **Federal Register** on Wednesday, August 29, 2012 (77 FR 52240) (FRL–9360–5) establishing tolerances for residues of pendimethalin and its metabolite in or on various commodities.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to pendimethalin, EPA considered exposure under the petitioned-for tolerances as well as all existing pendimethalin tolerances in 40 CFR 180.361. EPA assessed dietary exposures from pendimethalin in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure.

Such effects were identified for pendimethalin. In conducting the acute dietary exposure assessment for pendimethalin, EPA used the Dietary Exposure Evaluation Model software with the Food Commodity Intake Database (DEEM–FCID) Version 3.16. This software uses 2003–2008 food consumption data from the U.S. Department of Agriculture's (USDA's) National Health and Nutrition Examination Survey, What We Eat in America, (NHANES/WWEIA). The deterministic acute analysis is based on tolerance-level residues; 100 percent crop treated (PCT) assumptions for all of the pendimethalin use commodities in this assessment and DEEM™ default processing factors or empirical processing factors where available.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the DEEM–FCID, Version 3.16 software with 2003–2008 food consumption data from the USDA's NHANES/WWEIA. The deterministic unrefined chronic analysis is based on tolerance-level residues; 100 PCT assumptions for all of the pendimethalin use commodities in this assessment and DEEM™ default processing factors or empirical processing factors where available.

iii. *Cancer.* Based on the data summarized in Unit III.A., EPA has concluded that a nonlinear RfD approach is appropriate for assessing cancer risk to pendimethalin. Cancer risk was assessed using the same exposure estimates as discussed in Unit III.C.1.ii., chronic exposure.

iv. *Anticipated residue and PCT information.* EPA did not use anticipated residue or PCT information in the dietary assessment for pendimethalin. Tolerance-level residues, default processing factors and 100 PCT were assumed for all food commodities.

2. *Dietary exposure from drinking water.* The Agency used screening-level water exposure models in the dietary exposure analysis and risk assessment for pendimethalin in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of pendimethalin. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm.*

Based on the Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS—New York grape scenario) and Screening Concentration in Ground Water (SCI–GROW) models the estimated drinking water concentrations (EDWCs) of pendimethalin for acute exposures are estimated to be 77.7 parts per billion (ppb) for surface water and 0.036 ppb for ground water; and for chronic exposures are estimated to be 6.0 ppb for surface water and 0.036 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For acute dietary risk assessment, the water concentration value of 77.7 ppb was used to assess the contribution to

drinking water. For chronic dietary risk assessment, the water concentration of value 6.0 ppb was used to assess the contribution to drinking water.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Pendimethalin is currently registered for the following uses that could result in residential exposures: Turf, home gardens, and ornamentals. EPA assessed residential exposure using the following assumptions: For handlers, it is assumed that most residential use will result in short-term (1 to 30 days) duration dermal and inhalation exposures. Residential handlers are assumed to be adults wearing short-sleeved shirts, short pants, shoes and socks during application of pendimethalin.

Residential post-application exposure is also assumed to be short-term (1–30 days) in duration, resulting from the following exposure scenarios: Gardening: Adults (dermal) and children 6<11 years old (dermal); physical activities on turf: Adults (dermal) and children 1–2 years old (dermal and incidental oral); mowing turf: Adults (dermal) and children 11<16 years old (dermal); and exposure to golf courses during golfing: Adults (dermal), children 11<16 years old (dermal), and children 6<11 years old (dermal).

EPA did not combine exposure resulting from adult handler and post-application exposure resulting from treated gardens, lawns, and/or golfing because of the conservative assumptions and inputs within each estimated exposure scenario. The Agency believes that combining exposures resulting from handler and post-application activities would result in an overestimate of adult exposure. EPA selected the most conservative adult residential scenario (adult dermal post-application exposure from gardening) as the contributing source of residential exposure to be combined with the dietary exposure for the aggregate assessment.

The children's oral exposure is based on post-application hand-to-mouth exposures. To include exposure from object-to-mouth and soil ingestion in addition to hand-to-mouth would overestimate the potential for oral exposure. However, there is the potential for co-occurrence of dermal and oral exposure, since the toxicological effects from the dermal and oral routes of exposure are the same. As a result, the children's aggregate assessment combines post-application dermal and oral exposure along with dietary exposure from food and water.

Further information regarding EPA standard assumptions and generic inputs for residential exposures may be found at: *http://www.epa.gov/pesticides/science/residential-exposure-sop.html.*

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

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

D. Safety Factor for Infants and Children

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the Federal Quality Protection Act Safety Factor (FQPA SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* There was no indication of pre- and/or post-natal qualitative or quantitative increased susceptibility in the developmental studies in rats and rabbits or the 2-generation reproduction studies in rats. A developmental thyroid toxicity study demonstrated that there is no potential thyroid toxicity following pre- and/or post-natal exposure to pendimethalin.

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X. That decision is based on the following findings:

i. The toxicity database for pendimethalin is complete.

ii. There is no indication that pendimethalin is a neurotoxic chemical and there is no need for a developmental neurotoxicity study or additional UFs to account for neurotoxicity.

iii. There is no evidence that pendimethalin results in increased susceptibility *in utero* rats or rabbits in the prenatal developmental studies or in young rats in the 2-generation reproduction study. In addition, a developmental thyroid toxicity study demonstrated that there is no potential thyroid toxicity following pre- and/or post-natal exposure to pendimethalin.

iv. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed based on 100 PCT, tolerance-level residues and default processing factors. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to pendimethalin in drinking water. EPA used similarly conservative assumptions to assess post-application exposure of children as well as incidental oral exposure of toddlers. These assessments will not underestimate the exposure and risks posed by pendimethalin.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute population adjusted dose (aPAD) and chronic population adjusted dose (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to pendimethalin will occupy 1.7% of the aPAD for all infants less than 1 year old, the population group receiving the greatest exposure. Aggregate acute risk is by definition considered to include

exposure to food and drinking water only.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to pendimethalin from food and water will utilize 1.7% of the cPAD for children 1–2 years old, the population group receiving the greatest exposure. Based on the explanation in Unit III.C.3., regarding residential use patterns, chronic residential exposure (dermal and inhalation) to residues of pendimethalin is not expected.

3. *Short-term risk.* Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Pendimethalin is currently registered for uses that could result in short-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-term residential exposures to pendimethalin.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded the combined short-term food, water, and residential exposures result in aggregate MOEs of 130 for adults and 93 for children 1–2 years old, the two population subgroups receiving the greatest combined dietary and non-dietary exposure. Because EPA's level of concern for pendimethalin is a MOE of 30 or below, these MOEs are not of concern.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

An intermediate-term adverse effect was identified; however, pendimethalin is not registered for any use patterns that would result in intermediate-term residential exposure. Intermediate-term risk is assessed based on intermediate-term residential exposure plus chronic dietary exposure. Because there is no intermediate-term residential exposure and chronic dietary exposure has already been assessed under the appropriately protective cPAD (which is at least as protective as the POD used to assess intermediate-term risk), no further assessment of intermediate-term risk is necessary. Therefore, an intermediate-term aggregate assessment is not required.

5. *Aggregate cancer risk for U.S. population.* As discussed in Unit III.A., EPA has determined that an RfD approach based on the chronic point of departure is appropriate for evaluating cancer risk. As there are not chronic aggregate risks of concern, there are no cancer aggregate risk concerns.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population or to infants and children from aggregate exposure to pendimethalin residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement analytical methodologies are available to enforce the proposed tolerances. BASF Method D1005 is adequate to enforce the proposed tolerance for hops. Additionally, the FDA PESTDATA database pesticide analytical manual (PAM Volume II, Appendix I) lists four gas chromatograph with electron capture detection (GC/ECD) methods for the determination of pendimethalin residues of concern in plant commodities. These GC/ECD methods are suitable to enforce the tolerances associated with the crop conversions.

The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

There are currently no established Codex MRLs for the residues of pendimethalin.

V. Conclusion

Therefore, tolerances are established for residues of the herbicide pendimethalin in or on berry, low growing subgroup 13–07G at 0.1 ppm; fruit, citrus, group 10–10 at 0.1 ppm; fruit, pome, group 11–10 at 0.1 ppm; fruit, stone, group 12–12 at 0.1 ppm; hops, dried cones at 0.1 ppm; onion, bulb subgroup 3–07A at 0.1 ppm; onion, green subgroup 3–07B at 0.2 ppm; sunflower, subgroup 20B at 0.1 ppm; and vegetable, fruiting, group 8–10 at 0.1 ppm. Compliance with these tolerances will be determined by measuring only pendamethalin [*N*-(1-ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzenamine], and its metabolite, 4-[(1-ethylpropyl)amino]-2-methyl-3,5-dinitrobenzyl alcohol, calculated as the stoichiometric equivalent of pendimethalin. In addition, this regulation removes existing tolerances under 40 CFR 180.361 on pendimethalin in or on fruit, citrus, group 10 at 0.1 ppm; fruit, pome, group 11 at 0.1 ppm; fruit, stone, group 12 at 0.1 ppm; garlic at 0.1 ppm; leek at 0.20 ppm; onion, bulb at 0.1 ppm; onion, green at 0.20 ppm; onion, welsh at 0.20 ppm; shallot at 0.20 ppm; strawberry at 0.10 ppm; sunflower seed at 0.10 ppm; and vegetable, fruiting, group 8 at 0.10 ppm, as they are superseded by this action.

VI. Statutory and Executive Order Reviews

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

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

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

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

VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

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

Dated: January 30, 2015.

Susan Lewis,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

■ 2. In § 180.361:

■ a. Remove the entries for ''fruit, citrus, group 10 at 0.1 ppm; fruit, pome, group 11 at 0.1 ppm; fruit, stone, group 12 at 0.1 ppm; garlic at 0.1 ppm; leek at 0.20 ppm; onion, bulb at 0.1 ppm; onion, green at 0.20 ppm; onion, welsh at 0.20 ppm; shallot at 0.20 ppm; strawberry at 0.10 ppm; sunflower seed at 0.10 ppm; and vegetable, fruiting, group 8 at 0.10 ppm,'' from the table in paragraph (a).

■ b. Add alphabetically the commodities to the table in paragraph (a).

The additions read as follows:

§ 180.361 Pendimethalin; tolerance for residues.

(a) *General.* * * *

Commodity	Parts per million
* * * * * * *	
Berry, low growing subgroup 13–07G	0.1
* * * * * * *	
Fruit, citrus, group 10–10	0.1
Fruit, pome, group 11–10	0.1
* * * * * * *	
Fruit, stone, group 12–12	0.1
* * * * * * *	
Hop, dried cones	0.1
* * * * * * *	
Onion, bulb subgroup 3–07A	0.1
Onion, green subgroup 3–07B	0.2
* * * * * * *	
Sunflower subgroup 20B	0.1
* * * * * * *	
Vegetable, fruiting, group 8–10	0.1
* * * * * * *	

* * * * *

[FR Doc. 2015–02705 Filed 2–10–15; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 43 and 63

[IB Docket No. 04–112; FCC 13–6]

Reporting Requirements for U.S. Providers of International Telecommunications Services

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Federal Communications Commission (Commission) announces that the Office of Management and Budget (OMB) has approved, for a period of three years, the information collection associated with the Commission's *Second Report and Order,* IB Docket No. 04–112, FCC 13–6. This document is consistent with the *Second Report and Order,* which stated that the Commission would publish a document in the **Federal Register** announcing OMB approval and the effective date of the requirements.

DATES: 47 CFR 1.767(l)(2), 43.61, 43.62, 43.82, 63.10(c)(2) and (4), 63.21(d) and 63.22(e), published at 78 FR 15615, March 12, 2013 are effective on February 11, 2015.

FOR FURTHER INFORMATION CONTACT: For additional information contact Cathy Williams, *Cathy.Williams@fcc.gov,* (202) 418–2918.

SUPPLEMENTARY INFORMATION: This document announces that, on February 5, 2015, OMB approved the information collection requirements contained in the Commission's *Second Report and Order,* FCC 13–6, published at 78 FR 15615, March 12, 2013. The OMB Control Number is 3060–1156. The Commission publishes this document as an announcement of the effective date of the requirements. If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street SW., Washington, DC 20554. Please include the OMB Control Number, 3060–1165, in your correspondence. The Commission will also accept your comments via email at *PRA@fcc.gov.*

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received OMB approval on February 5, 2015, for the new information collection requirements contained in FCC 13–6.

Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Number is 3060–1156.

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

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

OMB Control Number: 3060–1156.

OMB Approval Date: February 5, 2015.

OMB Expiration Date: February 28, 2018.

Title: 47 CFR 43.62 Annual Reporting Requirements for U.S. Providers of International Services and Circuits.

Form Number: N/A.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 2,328 respondents; 2,328 responses.

Estimated Time per Response: 2–151 hours.

Frequency of Response: Annual reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained under Sections 1, 4(i)–4(j), 11, 201–205, 211, 214, 219, 220, 303(r), 309 and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i)–154(j), 161, 201–205, 211, 214, 219–220, 303(r), 309, 403.

Total Annual Burden: 14,606 hours.

Total Annual Cost: $2,400.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: In general, there is no need for confidentiality with this collection of information. The Commission, however, will allow filing entities to seek confidential treatment of their data.

Needs and Uses: The Federal Communications Commission (Commission) received approval from the Office of Management and Budget (OMB) for a revision of OMB Control No. 3060–1156. The purpose of the revision was to obtain OMB approval of the annual reporting requirements stipulated under 47 CFR 43.62 which requires that entities providing international services file annual circuit capacity reports and annual traffic and revenue reports, in a format set out in a Filing Manual.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of the Managing Director.

[FR Doc. 2015–02853 Filed 2–10–15; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 120328229–4949–02]

RIN 0648–XD672

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries

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

ACTION: Temporary rule; annual adjustment of Atlantic bluefin tuna Purse Seine and Reserve category quotas.

SUMMARY: NMFS is adjusting the Atlantic bluefin tuna (BFT) Purse Seine and Reserve category quotas for 2015, based on regulations implementing Amendment 7 to the 2006 Consolidated Highly Migratory Species Fishery Management Plan.

DATES: Effective February 10, 2015 through December 31, 2015.

FOR FURTHER INFORMATION CONTACT: Sarah McLaughlin or Brad McHale, 978–281–9260.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27 divides the U.S. BFT quota recommended by the

International Commission for the Conservation of Atlantic Tunas (ICCAT) among the various domestic fishing categories, per the allocations established in the 2006 Consolidated Highly Migratory Species Fishery Management Plan (2006 Consolidated HMS FMP) (71 FR 58058, October 2, 2006), as amended by the recently published Amendment 7 to the 2006 Consolidated HMS FMP (Amendment 7) (79 FR 71510, December 2, 2014) and in accordance with implementing regulations.

Among other things, Amendment 7 revised the allocations to all quota categories, effective January 1, 2015. As a result, based on the currently codified U.S. quota of 923.7 mt, the baseline Purse Seine and Reserve category quotas are codified as 159.1 mt and 21.4 mt, respectively. See § 635.27(a). Pursuant to § 635.27(a)(4), NMFS has determined the amount of quota available to individual Atlantic Tunas Purse Seine category participants in 2015, based on their BFT catch (landings and dead discards) last year. Specifically, NMFS is making available to each participant 100 percent, 75 percent, 50 percent, or 25 percent of the individual baseline quota allocations, as described in § 635.27(a)(4)(ii) and is reallocating the remainder to the Reserve category for 2015. Based on the procedures described above and by adding the individual available allocations, NMFS has determined the 2015 Purse Seine category quota available to Purse Seine fishery participants is 71.7 mt. Thus, the amount of Purse Seine category quota to be reallocated to the Reserve category is 87.4 mt, for a revised 2015 Reserve category quota of 108.8 mt (21.4 + 87.4 mt). Consistent with the quota regulations, NMFS may allocate any portion of the Reserve category quota for inseason or annual adjustments to any fishing category quota pursuant to regulatory determination criteria described at 50 CFR 635.27(a)(8), in addition to using the Reserve category quota for scientific research collection of bluefin tuna.

NMFS has calculated the amounts of quota available to individual Purse Seine fishery participants based on their individual catch levels in 2014 and the codified process adopted in Amendment 7. Total Purse Seine category BFT catches were 41.7 mt (37.5 mt of landings and 4.2 mt of dead discards) in 2014. Consistent with § 635.27(a)(4)(v)(C), NMFS will notify Atlantic Tunas Purse Seine fishery participants of the amount of quota available for their use this year through the Individual Bluefin Quota electronic system established under § 635.15 and in writing.

NMFS anticipates that it will announce additional bluefin tuna quota adjustments during 2015. For example, when complete 2014 bluefin tuna catch information is available and finalized, NMFS may augment the Reserve further by carrying forward underharvest, if any, from 2014, consistent with ICCAT limits. Also, the 2014 ICCAT recommendation regarding western Atlantic bluefin tuna management increases the baseline U.S. bluefin tuna quota and subquotas; NMFS will undertake domestic implementation of that recommendation in a separate rulemaking, with quotas finalized likely in mid-2015. Subsequent notices will be published in the **Federal Register**. In addition, fishermen may call the Atlantic Tunas Information Line at (888) 872–8862 or (978) 281–9260, or access hmspermits.noaa.gov, for updates.

This action is being taken under 50 CFR 635.27(a)(4) and (a)(7), and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: February 5, 2015.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2015–02809 Filed 2–10–15; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 80, No. 28
Wednesday, February 11, 2015

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 1000, 1001, 1005, 1006, 1007, 1030, 1032, 1033, 1124, 1126 and 1131

[Doc. No. AMS–DA–09–0065; DA–09–04]

Federal Milk Marketing Orders; Section 610 Review

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of regulatory review and request for comments.

SUMMARY: This notice announces the Agricultural Marketing Service's (AMS) review of the Federal Milk Marketing Orders using the criteria contained in section 610 of the Regulatory Flexibility Act (RFA), as amended.

DATES: Written comments on this notice must be received by April 13, 2015.

ADDRESSES: Interested persons are invited to submit comments concerning this notice of review by using the electronic process available at *http://www.regulations.gov.* Written comments may also be sent to Erin C. Taylor, Marketing Specialist, Order Formulation and Enforcement Branch, USDA/AMS/Dairy Programs, STOP 0231–Room 2971–S, 1400 Independence Avenue SW., Washington, DC 20250–0231. All comments, which should reference the docket number and the date and page number of this issue of the **Federal Register**, will be made available for public inspection via *www.regulations.gov,* or during regular business hours.

FOR FURTHER INFORMATION CONTACT: Erin C. Taylor, USDA/AMS/Dairy Programs, Order Formulations and Enforcement Branch, Stop 0231–Room 2971–S, 1400 Independence Avenue SW., Washington, DC 20250–0233, (202) 720–7311, *Erin.Taylor@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: The Federal milk marketing order (FMMO) program is authorized by the Agricultural Marketing Agreement Act of 1937 (Act), as amended (7 U.S.C. 601–674). It is designed to ensure a stable supply of fresh fluid milk for fluid processors and consumers. The program accomplishes this by providing a framework to make buying and selling milk a more orderly process thereby counteracting the inherent instability in the fluid milk markets.

A FMMO is a regulation issued by the Secretary of Agriculture that places certain requirements on the handling of milk for the fluid market in a geographic marketing area. It requires that handlers of milk for a marketing area pay no less than specified minimum class prices according to how the milk is used or classified. Class prices are determined by supply and demand conditions and the costs of serving alternative markets. A FMMO requires that payments for milk be combined and paid to individual farmers or cooperative associations of farmers on the basis of a uniform or average price for all milk sold. Thus, eligible farmers (producers) share the proceeds from all milk purchased by regulated handlers in the marketing area. There are 10 marketing orders regulating the handling of milk in the respective marketing areas. Approximately 60 percent of all milk marketed in the United States is marketed under Federal milk marketing orders.

The two principle objectives of the program are the classified pricing of products and the marketwide pooling of returns. A classified pricing plan sets forth minimum prices that handlers must pay for milk used in different classes of products. The program requires that Class I (bottled milk) demand always be met. The remaining milk produced is considered a reserve supply that is needed to ensure daily fluctuations in Class I demand are always fulfilled. This reserve supply is made into manufactured products (Class II through Class IV) that are sold at prices related to the supply and demand for those products. Class II includes ''soft'' products such as cottage cheese, ice cream, and yogurt, while Class III and Class IV include the storable, ''hard'' manufactured products, such as cheese, butter, and nonfat dry milk. Classification is uniform throughout the order system.

Monthly prices for the four classes of milk are determined and announced to both buyers and sellers, providing a measure of predictability for economic decisions that facilitate orderly marketing. It is at these classified prices that regulated handlers account to the marketwide pool. Each marketing order maintains its own marketwide pool from which a uniform blend price is computed for all the milk sold within that marketing area. The blend price is paid to all farmers who sell milk under the regulations of the program regardless of how their milk is used.

The FMMO program also provides several other functions that benefit producers whose milk is regulated under the program. Federal orders have the authority to verify producer milk weights and component tests, a function that helps assure accurate and equitable payments for milk by regulated handlers. Producers also are assured of receiving timely payments for their milk since order provisions establish and enforce payment dates for milk purchases. In addition, Federal orders perform comprehensive audits to assure accurate reporting of how handlers utilize milk.

AMS published in the **Federal Register** a plan (64 FR 8014, February 18, 1999), and later an updated plan (71 FR 14827, March 24, 2006), to review certain regulations using criteria contained in section 610 of the RFA (5 U.S.C. 601–612). Given that many AMS regulations impact small entities, AMS decided as a matter of policy to review certain regulations which, although they may not meet the threshold requirement under section 610 of the RFA, warrant review. Accordingly, this notice and request for comments is made for the FMMO program.

The purpose of the review is to determine whether the FMMO program should be continued without change, amended, or rescinded (consistent with the objectives of the Act) to minimize any significant economic impact of rules upon a substantial number of small entities. AMS will consider the continued need for the FMMO program; the nature of complaints or comments received from the public concerning the FMMO program; the complexity of the FMMO program; the extent to which the FMMO program overlaps, duplicates, or conflicts with other Federal rules, and, to the extent feasible, with State and local government rules; and the length of time since the FMMO program has been evaluated or the degrees to which

technology, economic conditions, or other factors have changes in the area affect by the FMMO program.

Written comments, views, opinions, and other information regarding the FMMO program's impact on small businesses are invited.

Dated: February 6, 2015.

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2015–02902 Filed 2–10–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF ENERGY

10 CFR Part 430

[Docket No. EERE–2011–BT–STD–0043]

RIN 1904–AC51

Energy Efficiency Program for Residential Products: Energy Conservation Standards for Miscellaneous Refrigeration Products

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Reopening of public comment period.

SUMMARY: The U.S. Department of Energy (DOE) has published a preliminary technical support document (TSD) that analyzes the potential economic impacts and energy savings that could result from potential energy conservation standards for miscellaneous refrigeration products. DOE published this analysis so stakeholders can review the relevant outputs and the underlining assumptions and calculations. After receiving a request for additional time to comment on the TSD, the comment period for the TSD pertaining to the energy conservation standards for miscellaneous refrigeration products is reopened until March 2, 2015.

DATES: The comment period for the TSD pertaining to energy conservation standards for miscellaneous refrigeration products is reopened until March 2, 2015.

ADDRESSES: Interested persons may submit comments, identified by docket number EERE–2011–BT–STD–0043 and/or Regulation Identification Number (RIN) 1904–AC51, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: WineChillers-2011-STD-0043@ee.doe.gov.* Include the docket number EERE–2011–BT–STD–0043 and/or RIN 1904–AC51 in the subject line of the message.
- *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies. [Please note that comments and CDs sent by mail are often delayed and may be damaged by mail screening processes.]
- *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 950 L'Enfant Plaza SW., Suite 600, Washington, DC 20024. Telephone (202) 586–2945. If possible, please submit all items on CD, in which case it is not necessary to include printed copies.

Docket: The docket is available for review at *www.regulations.gov,* including **Federal Register** notices, public meeting attendee lists and transcripts, comments, and other supporting documents/materials. All documents in the docket are listed in the *www.regulations.gov* index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure. The rulemaking Web page can be found at: *http://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/71.* This Web page contains a link to the docket for this notice on the regulation.gov site. The *www.regulations.gov* Web page contains instructions on how to access all documents in the docket, including public comments.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Hagerman, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. Email: *refrigerators_and_freezers@EE.Doe.Gov.*

In the Office of the General Counsel, contact Mr. Michael Kido, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–8145. Email: *Michael.Kido@hq.doe.gov.*

For further information on how to submit a comment and review other public comments and the docket, contact Ms. Brenda Edwards at (202) 586–2945 or by email: *Brenda.Edwards@ee.doe.gov.*

SUPPLEMENTARY INFORMATION: DOE published a notice of public meeting and availability of the preliminary technical support document in the **Federal Register** to make available and invite comments on its preliminary analysis regarding energy conservation standards for miscellaneous refrigeration products. 79 FR 71705 (December 3, 2014) The notice provided for the written submission of comments by February 2, 2015. Thereafter, the Association of Home Appliance Manufacturers (AHAM) requested an extension of the public comment period. AHAM stated that additional time is necessary to review the published analysis in order to prepare and submit comments. DOE has determined that reopening the comment period to allow additional time for interested parties to submit comments is appropriate based on the foregoing reason. DOE believes that re-opening the comment period will provide the public with sufficient time to submit comments responding to DOE's preliminary analysis. Accordingly, DOE will consider any comments received by midnight of March 2, 2015, and deems any comments received by that time to be timely submitted.

Issued in Washington, DC, on February 3, 2015.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

[FR Doc. 2015–02843 Filed 2–10–15; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

10 CFR Part 460

[Docket Number EERE–2009–BT–BC–0021]

RIN 1904–AC11

Energy Conservation Program: Energy Efficiency Standards for Manufactured Housing

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Request for information.

SUMMARY: The U.S. Department of Energy (DOE) has initiated the process to develop and publish energy efficiency standards for manufactured housing, as directed by the Energy Independence and Security Act of 2007 (EISA). To facilitate this process, enhance the quality of the standards and supporting documentation, and to allow interested parties to provide comments and information, DOE is publishing this request for information (RFI). DOE specifically is interested under this RFI in receiving information that relates to

solar heat gain coefficient (SHGC) and window fenestration pertaining to manufactured housing for consideration under the proposed rule that currently is in development.

DATES: Written comments and information are requested on or before March 13, 2015.

ADDRESSES: Interested parties are encouraged to submit comments electronically. However, comments may be submitted by any of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: MfgHousing2009BC0021@ee.doe.gov.* Include docket number EERE–2009–BT–BC–0021 and/or Regulatory Identification Number (RIN) 1904–AC11 in the subject line of the message. All comments should clearly identify the name, address, and, if appropriate, organization of the commenter.
- *Postal Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–5B, Request for Information for Energy Efficiency Standards for Manufactured Housing, Docket No. EERE–2009–BT–BC–0021, 1000 Independence Avenue SW., Washington, DC 20585–0121. Please submit one signed paper original.
- *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Sixth Floor, 950 L'Enfant Plaza, SW., Washington, DC 20024. Please submit one signed paper original.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. No telefacsimiles (faxes) will be accepted. Due to potential delays in DOE's receipt and processing of mail sent through the U.S. Postal Service, we encourage respondents to submit comments electronically to ensure timely receipt.

Docket: This RFI and any comments that DOE receives will be made available on the docket, which is available for review at *www.regulations.gov* and includes all **Federal Register** notices, public meeting attendees' lists and transcripts, comments, and other supporting documents/materials applicable to this rulemaking. All documents in the docket are listed in the *www.regulations.gov* index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

A link to the docket Web page can be found at: *http://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx?ruleid=97.* This Web page contains a link to the docket for this notice on the *www.regulations.gov* Web site. The *www.regulations.gov* Web page contains simple instructions on how to access all documents, including public comments, in the docket.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Hagerman, Senior Advisor, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–5B, 1000 Independence Avenue SW., Washington, DC, 20585–0121. Telephone: (202) 586–4549. Email: *Manufactured_Housing@ee.doe.gov.*

Kavita Vaidyanathan, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–0669. Email: *Kavita.Vaidyanathan@hq.doe.gov.*

For information on how to submit or review public comments, contact Ms. Brenda Edwards, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, Mailstop EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–2945. Email: *Brenda.Edwards@ee.doe.gov.*

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I. Introduction

A. Authority

The Energy Independence and Security Act of 2007 (EISA, Pub. L. 110–140) requires that DOE establish by regulation standards for energy efficiency in manufactured housing. DOE is directed to base the standards on the most recent version of the International Energy Conservation Code (IECC) and any supplements to that document, except where DOE finds that the IECC is not cost-effective, or where a more stringent standard would be more cost-effective, based on the impact of the IECC on the purchase price of manufactured housing and on total life-cycle construction and operating costs. *See* 42 U.S.C. 17071(b)(1).

B. Background

On June 13, 2014, DOE published a notice of intent to establish a manufactured housing working group (MH working group) to discuss and, if possible, achieve consensus on recommendations for a proposed rule. 79 FR 33873. On July 16, 2014, the MH working group was established under the Appliance Standards and Rulemaking Federal Advisory Committee (ASRAC) in accordance with the Federal Advisory Committee Act and the Negotiated Rulemaking Act. *See* 79 FR 41456; 5 U.S.C. 561–570, App. 2. The MH working group was to consist of representatives of parties having a defined stake in the outcome of the proposed standards, and the group would consult, as appropriate, with a range of external experts on technical issues.

The MH working group consisted of 22 members, including one member from ASRAC and one DOE representative. The MH working group met in-person during six sets of meetings held August 4–5, August 21–22, September 9–10, September 22–23, October 1–2, and October 23–24. *See* 79 FR 48097 and 79 FR 59154.

On October 31, 2014, the MH working group reached consensus on energy efficiency standards in manufactured housing and assembled its recommendations for DOE into a term sheet that was presented to ASRAC. *See* EERE–2009–BT–BC–0021–0107. ASRAC approved the term sheet during an open meeting on December 1, 2014. As part of the term sheet, the MH working group recommended that DOE conduct additional analysis to inform the selection of solar heat gain coefficient (SHGC) requirements in certain climate zones. *See* EERE–2009–BT–BC–0021–0107, p. 3, Recommendation 5. For more information on the MH working group's recommendations, please refer to the complete term sheet posted in the public docket. *See* EERE–2009–BT–BC–0021–0107.

II. Request for Information and Comments

A. Solar Heat Gain Coefficient Sensitivity Analysis

The MH working group did not recommend a specific SHGC value for climate zones 1B and 2. *See* EERE–2009–BT–BC–0021–0107, p. 2, Recommendation 3.1 for climate zones. Instead, the MH working group requested that DOE complete additional sensitivity analysis and select the SHGC based on that data. Specifically, the MH working group requested that DOE analyze window fenestration SHGC values of 0.25, 0.30, and 0.33. In previous energy simulation analysis, DOE performed a modeling analysis

with windows uniformly distributed on the exterior walls of a manufactured home. While windows are frequently concentrated on one side of typical manufactured homes in practice, a uniform configuration for the energy simulation represented the fact that manufactured homes are sited in a full range of orientations (east, west, north, south, etc.). This configuration effectively calculates a weighted average energy use for homes facing all directions. For the sensitivity analysis, the MH working group requested energy simulation analysis that places all windows on a single side of the home, with windows facing the cardinal direction that would give SHGC the greatest impact on energy use. In response to the MH working group's request, DOE completed additional energy simulation analysis and life-cycle cost (LCC) analysis. For more information on the MH working group's recommendations with regard to SHGC, please refer to the complete term sheet posted in the public docket. *See* EERE–2009–BT–BC–0021–0107.

For simulation of manufactured housing energy use, DOE used the EnergyPlus 5.0 software that was also used for energy simulation analytical support during meetings of the MH working group. EnergyPlus 5.0 is a detailed whole-building energy modeling tool that is useful for simulating the heating, cooling, and ventilation loads in a building. To simulate manufactured home energy use, DOE created a representative manufactured home using typical construction assumptions such as building geometry and framing member size. These assumptions are the same as those used for energy simulation during the MH working group process.

To maximize the impact of SHGC on energy use, DOE placed all windows on one side of the representative manufactured home, with that side facing west. DOE then generated energy use values for the three SHGC values in nine cities (four cities in climate zone 1B and five cities in climate zone 2, as recommended by the MH working group) and for two sizes of manufactured homes (single-section and double-section).

The LCC analysis calculates the total cost of ownership savings over a specified period of time. The total cost of ownership savings is equal to the total cost of ownership of a reference manufactured home minus the total cost of ownership of a manufactured home constructed in accordance with DOE's proposed standards. The reference home is modeled to meet the minimum energy efficiency requirements of the Department of Housing and Urban Development Code. *See* 24 CFR 3280 *et seq.* The LCC analysis includes both operating costs (primarily energy costs) and purchase cost of the manufactured home. DOE calculated energy costs (using the energy simulation results) and added those to the purchase cost of the manufactured home, accounting for differences in the cost of the three window fenestration types. Regarding the purchase cost of the standards-compliant manufactured home, only the cost of window fenestration varied for each scenario of the SHGC sensitivity analysis. Other building thermal envelope components were modeled (for energy simulation and cost analysis) as specified in the MH working group term sheet. *See* EERE–2009–BT–BC–0021–0107. DOE calculated the 10-year total cost of ownership savings for manufactured housing with window fenestration SHGC of 0.25, 0.30, and 0.33. The 10-year analysis period represents the total cost of ownership for the first owner of the manufactured home and assumes the first owner keeps the manufactured home for 10 years. For more information with regard to DOE's LCC analysis, please refer to the complete term sheet posted in the public docket. *See* EERE–2009–BT–BC–0021–0107.

The energy simulation analysis indicated SHGC of 0.25 had the lowest energy use and SHGC of 0.33 had the highest energy use. Based on industry input collected from the MH working group, DOE assigned single-section manufactured home window fenestration prices (retail prices before sales tax) of $1446, $1389, and $1355 for SHGC of 0.25, 0.30, and 0.33, respectively.

The LCC analysis, based on the energy simulation results and window fenestration prices, determined that SHGC of 0.30 provided the largest 10-year cost of ownership savings in all four cities analyzed in climate zone 1B and in four of the five cities analyzed in climate zone 2. SHGC of 0.33 had the second most 10-year cost-of-ownership savings, and SHGC of 0.25 had the least 10-year cost-of-ownership savings. These 10-year cost-of-ownership savings results are listed in Table II.1.

TABLE II.1—10-YEAR COST-OF-OWNERSHIP SAVINGS RESULTS

Climate zone	City	Single section 10-year total cost-of-ownership savings			Double section 10-year total cost-of-ownership savings		
		SHGC 0.25	SHGC 0.30	SHGC 0.33	SHGC 0.25	SHGC 0.30	SHGC 0.33
1B	Atlanta	$1,030	$1,046	$1,036	$2,003	$2,028	$2,007
1B	Charleston	734	746	726	1,479	1,497	1,460
1B	Jackson	928	942	925	1,807	1,830	1,799
1B	Birmingham	836	854	842	1,652	1,681	1,658
2	Memphis	962	974	962	1,736	1,757	1,733
2	El Paso	828	830	793	1,524	1,528	1,461
2	San Francisco	179	197	195	504	532	520
2	Baltimore	1,240	1,265	1,281	1,996	2,037	2,059
2	Albuquerque	927	934	920	1,702	1,714	1,682

Based on the 10-year cost-of-ownership savings results, DOE concluded that an SHGC requirement of 0.30 would lead to the most cost-effective manufactured home for both climate zones 1B and 2. DOE requests comment on whether to include an SHGC requirement of 0.30 for climate zones 1B and 2 in development of the proposed rule.

B. Window Fenestration Energy Efficiency Programs for Manufactured Housing

DOE is interested in receiving information that relates to window fenestration manufacturing and programs available to the manufactured housing industry. DOE requests comment on several topics related to window fenestration efficiency and manufactured homes:

1. DOE is interested in receiving additional information on existing

window fenestration labeling programs available to the manufactured housing industry that may label the whole window or individual insulated glass units (IGUs).

2. DOE requests comment on the potential challenges related to determining the energy efficiency of IGUs in manufactured homes or insuring the efficiency of IGUs in manufactured homes in connection with voluntary window fenestration labeling programs.

3. DOE requests comment on any other issues related to the regulation of window fenestration in manufactured housing.

III. Submission of Comments

DOE invites all interested parties to submit in writing by March 13, 2015, comments and information on matters addressed in this RFI. After the close of the comment period, DOE will consider the public comments in development of the proposed rule.

DOE considers public participation to be a very important part of the process for developing energy efficiency standards for manufactured housing. DOE actively encourages the participation and interaction of the public during the comment period at each stage of the rulemaking process. Interactions with and between members of the public provide a balanced discussion of the issues and assist DOE in the rulemaking process. Anyone who wishes to be added to the DOE mailing list to receive future notices and information about this rulemaking should contact Ms. Brenda Edwards at (202) 586–2945, or via email at *Brenda.Edwards@ee.doe.gov.*

Issued in Washington, DC, on February 3, 2015.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

[FR Doc. 2015–02842 Filed 2–10–15; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2014–1075]

RIN 1625–AA87

Security Zone, U.S. Open Golf Championship, South Puget Sound; University Place, WA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary security zone for the U.S. Open Golf Championship at Chambers Bay Golf Course in South Puget Sound, University Place, WA, from June 14, 2015 through June 22, 2015. This action is necessary to ensure the safety and security of participants, spectators, and event officials at the U.S. Open Golf Championship, and will do so by prohibiting any person or vessel from entering or remaining in the security zone unless authorized by the Captain of the Port or his Designated Representative.

DATES: Comments and related material must be received by the Coast Guard on or before March 13, 2015.

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

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

(2) *Fax:* 202–493–2251.

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

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

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Petty Officer Ryan Griffin, Coast Guard Sector Puget Sound, Waterways Management Division; telephone (206) 217–6323, email *SectorPugetSoundWWM@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–2014–1075] 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–2014–1075) 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

This security zone is necessary to safeguard the U.S. Open Golf Championship participants and attendees from potential waterborne threats and hazards. It is also intended to prevent potential subversive acts that threaten the safety and security of the participants, spectators, and event officials at this event. The U.S. Open Golf Championship is an internationally televised event and will have a daily attendance of approximately 65,000 people. The event involves a security risk due to the participants' highly recognized national profiles.

C. Basis and Purpose

The legal basis for the proposed rule is 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; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to establish security zones.

The Chambers Bay Golf Course, located in the city of University Place, WA and the County of Pierce, will be the host site for the U.S. Golf Association 115th Annual U.S. Open Golf Championship from June 15, 2015 through June 21, 2015. This event will have a daily attendance of approximately 65,000 people and receives international press including multiple days of live television coverage. Due to the high number of general public in attendance and press coverage, the U.S. Open Golf Championship qualifies as a significant special event that requires a security zone. Based on past incursions at similar events at Chambers Bay Golf Course, this security zone is necessary for the size detailed in the regulation section below, 24 hours a day, for the duration of the event.

The purpose of this rule is to deter and prevent potential criminal and terrorist activity against the large gathering of people at the highly publicized U.S. Open Golf Championship. This action is necessary to ensure the safety and security of participants, spectators, and event officials at the U.S. Open Golf Championship, and will do so by prohibiting any person or vessel from entering or remaining in the security zone unless authorized by the Captain of the Port or his Designated Representative.

D. Discussion of Proposed Rule

The Coast Guard proposes to establish a temporary security zone on all waters encompassed by the following points: 47°12′50″ N, 122°35′25″ W; thence southerly to 47°11′14″ N, 122°35′50″ W; thence easterly to the shoreline at 47°11′14″ N, 122°35′03″ W; thence northerly along the shoreline to 47°12′49″ N, 122°34′39″ W; thence westerly back to the point of origin.

Vessels wishing to enter the security zone must request permission for entry by contacting the Joint Harbor Operations Center at (206) 217–6001, or the on-scene patrol craft via VHF–FM Ch 13. If permission for entry is granted, vessels must proceed at a minimum speed for safe navigation.

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. This proposed rule is not a significant regulatory action because it would create a security zone that is minimal in size and short in duration.

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 would affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit through the established security zone during the times of enforcement. This proposed rule would not have a significant economic impact on a substantial number of small entities because the temporary security zone is the minimum size necessary to achieve intended purpose, maritime traffic would be able to transit around it and may be permitted to transit them with the permission from the Captain of the Port or a Designated Representative.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed 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 proposed rule would economically affect it.

3. Assistance for Small Entities

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

4. Collection of Information

This proposed rule would 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 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 proposed rule would not result in such an expenditure, we do discuss the effects of this proposed 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 the establishment of a temporary security zone near Chambers Bay Golf Course in South Puget Sound, University Place, WA. This proposed rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. A preliminary environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add temporary § 165.T13–281 to read as follows:

§ 165.T13.281 Security Zone; U.S. Open Golf Championship, South Puget Sound; University Place, WA.

(a) *Location.* This temporary security zone is established in all waters encompassed by the following points: 47°12′50″ N, 122°35′25″ W; thence southerly to 47°11′14″ N, 122°35′50″ W; thence easterly to the shoreline at 47°11′14″ N, 122°35′03″ W; thence northerly along the shoreline to 47°12′49″ N, 122°34′39″ W; thence westerly back to the point of origin.

(b) *Regulations.* In accordance with the general regulations in 33 CFR part 165, subpart C, no person or vessel may enter or remain in the security zone created by this section without the permission of the Captain of the Port or his Designated Representative. Designated Representatives are Coast Guard Personnel authorized by the Captain of the Port to grant persons or vessels permission to enter or remain in the security zone created by this section. See 33 CFR part 165, subpart C, for additional information and requirements. Vessels wishing to enter the zone must request permission for entry by contacting the Joint Harbor Operations Center at (206) 217–6001, or the on-scene patrol craft via VHF–FM Ch 13. If permission for entry is granted vessels must proceed at a minimum speed for safe navigation.

(c) *Enforcement Period.* This rule will be enforced from 6 a.m. on June 14, 2015, until 11 p.m. on June 22, 2015, unless canceled sooner by the Captain of the Port.

Dated: January 27, 2015.

M.W. Raymond,

Captain, U.S. Coast Guard, Captain of the Port, Puget Sound.

[FR Doc. 2015–02711 Filed 2–10–15; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2015–0037; FRL–9922–87–Region 9]

Revisions to the California State Implementation Plan, Butte County Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing a limited approval and limited disapproval of revisions to the Butte County Air Quality Management District's (BCAQMD) portion of the California State Implementation Plan (SIP). These revisions concern volatile organic compounds (VOCs), oxides of nitrogen (NO_X), and particulate matter (PM) emissions from open burning. We are proposing action on a local rule that regulates these emission sources under the Clean Air Act (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by March 13, 2015.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2015–0037, by one of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the on-line instructions.
2. *Email: steckel.andrew@epa.gov.*
3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments 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 Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *www.regulations.gov* or email. *www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send email directly to EPA, your email address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: Generally, documents in the docket for this action are available electronically at *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 at *www.regulations.gov,* some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material, large maps), and some may not be publicly available in either location (*e.g.,* CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Rynda Kay, EPA Region IX, (415) 947–4118, *Kay.Rynda@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

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I. The State's Submittal

A. What rule did the State submit?

Table 1 lists the rule addressed by this proposal with the date that is was adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1—SUBMITTED RULE

Local agency	Rule No.	Rule title	Amended	Submitted
BCAQMD	300	Open Burning	02/24/11	09/21/12

On October 11, 2012, EPA determined that the submittal for BCAQMD Rule 300 met the completeness criteria in 40 CFR part 51 Appendix V, which must be met before formal EPA review.

B. Are there other versions of this rule?

There is no previous version of Rule 300 in the California SIP. BCAQMD previously adopted Rules 301–325 for open burning which were approved by the EPA for inclusion into the California SIP in 1987. BCAQMD later consolidated these rules locally into Rule 300. On February 24, 2011, BCAQMD updated the open burning requirements in Rule 300 and CARB submitted the rule to us on October 21, 2012. This rule would supersede the BCAQMD rules currently in the California SIP as listed below.

TABLE 2—RULES TO BE SUPERSEDED

Rule	Title	SIP approval date	FR Citation
301	Prohibitions on Open Burning	February 3, 1987	52 FR 3226.
302	Exemptions to Rule 301	February 3, 1987	52 FR 3226.
303	Burn Permits	February 3, 1987	52 FR 3226.
304	Exemptions to Rule 303	February 3, 1987	52 FR 3226.
306	Information Furnished by Permit Applicant	February 3, 1987	52 FR 3226.
307	Ignition Hours	February 3, 1987	52 FR 3226.
308	Notice of Intent to Ignite	February 3, 1987	52 FR 3226.
309	Freedom from Debris and Moisture	February 3, 1987	52 FR 3226.
310	Arrangement of Agricultural and Wood Waste	February 3, 1987	52 FR 3226.
311	Drying Period	February 3, 1987	52 FR 3226.
312	Wind Direction	February 3, 1987	52 FR 3226.
313	Ignition Devices	February 3, 1987	52 FR 3226.
314	Burning of Vines or Bushes Treated with Herbicides	February 3, 1987	52 FR 3226.

TABLE 2—RULES TO BE SUPERSEDED—Continued

Rule	Title	SIP approval date	FR Citation
315	Rice Straw Burning	February 3, 1987	52 FR 3226.
316	Field Crop Ignition	February 3, 1987	52 FR 3226.
317	Field Crops Harvested Prior to September 10	February 3, 1987	52 FR 3226.
318	Restriction of Burning During Poor Air Quality Conditions	February 3, 1987	52 FR 3226.
320	Certificate from Department of Fish and Game	February 3, 1987	52 FR 3226.
322	Special Permit	February 3, 1987	52 FR 3226.
323	Range Improvement Burning	February 3, 1987	52 FR 3226.
324	Burning at Disposal Sites	February 3, 1987	52 FR 3226.
325	Exemption to Rule 324	February 3, 1987	52 FR 3226.

C. What is the purpose of the submitted rule?

Open burning emits PM, including particulate matter of ten microns or less (PM_{10}) and particulate matter of 2.5 microns or less ($PM_{2.5}$), directly, as well as VOCs and NO_X, which are precursors to ozone and $PM_{2.5}$. VOCs help produce ground-level ozone and smog, which harm human health and the environment. NO_X helps produce ground-level ozone, smog and particulate matter, which harm human health and the environment. PM contributes to effects that are harmful to human health and the environment, including premature mortality, aggravation of respiratory and cardiovascular disease, decreased lung function, visibility impairment, and damage to vegetation and ecosystems.

Section 110(a) of the CAA requires States to submit regulations that control VOC, NO_X, and PM emissions. Rule 300 is designed to minimize the impacts of smoke and other air pollutants generated by open burning. EPA's technical support document (TSD) has more information about this rule.

II. EPA's Evaluation and Action

A. How is EPA evaluating the rule?

Generally, SIP rules must be enforceable (see CAA section 110(a)(2)), must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (see CAA section 110(l)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA section 193).

In $PM_{2.5}$ nonattainment areas classified as moderate, the SIP must include Reasonably Available Control Measures (RACM) (see CAA section 189(a)(1)). BCAQMD regulates the Chico nonattainment area in Butte County, which is classified as moderate for the 2006 24-hour $PM_{2.5}$ National Ambient Air Quality Standard (NAAQS) (40 CFR 81.305). On September 10, 2013 (78 FR 55225), EPA issued a determination that the area had attained the 2006 24-hour $PM_{2.5}$ standard based on complete, quality-assured, and certified ambient air monitoring data for the 2010–2012 monitoring period. Under EPA's Clean Data Policy and the regulations that embody it, 40 CFR 51.1004(c) (for $PM_{2.5}$), an EPA determination that an area is attaining the relevant standard suspends the area's obligations to submit RACM for as long as the area continues to attain. Therefore, BCAQMD is not currently required to implement RACM for $PM_{2.5}$. If the Chico nonattainment area is redesignated to attainment, RACM requirements for $PM_{2.5}$ will no longer apply.

BCAQMD also regulates the Chico ozone nonattainment area, which is classified as marginal under the 1997 and 2008 NAAQS.[1] CAA sections 172(c)(1) and 182 require implementation of RACM for moderate and above ozone areas, but not for marginal areas. Therefore, BCAQMD is not subject to RACM requirements with respect to ozone.

Guidance and policy documents that we use to evaluate enforceability, revision/relaxation and rule stringency requirements for the applicable criteria pollutants include the following:

1. ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).

2. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,'' EPA, May 25, 1988 (the Bluebook, revised January 11, 1990).

3. ''Guidance Document for Correcting Common VOC & Other Rule Deficiencies,'' EPA Region 9, August 21, 2001 (the Little Bluebook).

[1] On December 3, 2012 (77 FR 71551), EPA determined that Chico nonattainment area had attained the 1997 8-hour ozone NAAQS by the applicable attainment date, and that it continued to attain the 1997 standard based upon complete quality-assured data for 2009–2011.

B. Does the rule meet the evaluation criteria?

We believe this rule is largely consistent with the relevant policy and guidance regarding enforceability, stringency, and SIP relaxations. Rule provisions which do not meet the evaluation criteria are summarized below and discussed further in the TSD.

C. What are the deficiencies in the rule?

BCAQMD Rule 300 contains two provisions which do not meet the evaluation criteria concerning enforceability and preclude full SIP approval. The provisions allow the Air Pollution Control Officer (APCO) to independently interpret the SIP without explicit and replicable procedures within the rule to tightly define how the discretion is exercised to assure equivalent emission reductions and without explicit approval of such discretion provisions by the EPA (Little Blue Book, page 17; see also 52 FR 45044, 45109 (November 24, 1987)).

1. Sections 5.53 and 6.5 prohibit burning of rubbish or garbage except under variance by the hearing board as follows:

''5.53 Variance: Temporary exemption from DISTRICT rules or regulations granted to sources by the DISTRICT Hearing Board.

6.5 It is unlawful to burn rubbish or garbage at dumps, landfills, or refuse disposal areas, or at any solid waste dump, whether public or private, or to burn garbage anywhere else in the County of Butte, except under variance.''

2. Sections 8.24 allows the APCO to waive drying time requirements:

''8.2.4 The drying time requirements stated in Sections 8.2.1 and 8.2.2 may be waived by the APCO for good cause at the discretion of the APCO. The adequacy of cause to waive the drying time requirements shall be decided on a case-by-case basis by the APCO.''

D. EPA Recommendations to Further Improve the Rule

The TSD describes additional rule revisions that we recommend for the next time the local agency modifies the rule.

E. Public Comment and Proposed Action

As authorized in sections 110(k)(3) and 301(a) of the Act, EPA is proposing a limited approval of the submitted rule to improve the SIP. If finalized, this action would incorporate the submitted rule into the SIP, including those provisions identified as deficient. This approval is limited because EPA is simultaneously proposing a limited disapproval of the rule under section 110(k)(3). If this disapproval is finalized, sanctions will be imposed under section 179 of the Act unless EPA approves subsequent SIP revisions that correct the rule deficiencies within 18 months of the disapproval. These sanctions would be imposed according to 40 CFR 52.31. A final disapproval would also trigger the 2-year clock for the federal implementation plan (FIP) requirement under section 110(c).

Note that the submitted rule has been adopted by the BCAQMD, and EPA's final limited disapproval would not prevent the local agency from enforcing it. The limited disapproval also would not prevent any portion of the rule from being incorporated by reference into the federally enforceable SIP as discussed in a July 9, 1992 EPA memo titled ''Processing of State Implementation Plan (SIP) Submittals.''

We will accept comments from the public on the proposed limited approval and limited disapproval for the next 30 days.

III. Statutory and Executive Order Reviews

A. Executive Order 12866, Regulatory Planning and Review

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled ''Regulatory Planning and Review.''

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.* 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.

This rule will not have a significant impact on a substantial number of small entities because SIP approvals or disapprovals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve or disapprove requirements that the State is already imposing. Therefore, because EPA's proposed limited approval/limited disapproval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. Union Electric Co., v. U.S. EPA, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a) (2).

D. Unfunded Mandates Reform Act

Under sections 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the limited approval/limited disapproval action proposed 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 Federal action proposes to approve and disapprove 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

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 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.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This 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, as specified in Executive Order 13132, because it merely proposes to approve or disapprove a State rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

F. Executive Order 13175, Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This proposed rule does not have tribal implications, as specified in Executive Order 13175. It will not

have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes. Thus, Executive Order 13175 does not apply to this rule.

EPA specifically solicits additional comment on this proposed rule from tribal officials.

G. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

EPA interprets Executive Order 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 Executive Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045, because it proposes to approve a State rule implementing a Federal standard.

H. Executive Order 13211, Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (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 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

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.

List of Subjects in 40 CFR Part 52

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

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

Dated: January 23, 2015.

Jared Blumenfeld,

Regional Administrator, Region IX.

[FR Doc. 2015–02700 Filed 2–10–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2015–0032; FRL–9921–94]

Receipt of Several Pesticide Petitions Filed for Residues of Pesticide Chemicals in or on Various Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of filing of petitions and request for comment.

SUMMARY: This document announces the Agency's receipt of several initial filings of pesticide petitions requesting the establishment or modification of regulations for residues of pesticide chemicals in or on various commodities.

DATES: Comments must be received on or before March 13, 2015.

ADDRESSES: Submit your comments, identified by docket identification (ID) number and the pesticide petition number (PP) of interest as shown in the body of this document, by one of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

• *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.

• *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

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

FOR FURTHER INFORMATION CONTACT: Susan Lewis, Registration Division (RD) (7505P), main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.* The mailing address for each contact person is: Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001. As part of the mailing address, include the contact person's name, division, and mail code. The division to contact is listed at the end of each pesticide petition summary.

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).

If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT** for the division listed at the end of the pesticide petition summary of interest.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that

is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low-income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticides discussed in this document, compared to the general population.

II. What action is the agency taking?

EPA is announcing its receipt of several pesticide petitions filed under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, requesting the establishment or modification of regulations in 40 CFR part 180 for residues of pesticide chemicals in or on various food commodities. The Agency is taking public comment on the requests before responding to the petitioners. EPA is not proposing any particular action at this time. EPA has determined that the pesticide petitions described in this document contain the data or information prescribed in FFDCA section 408(d)(2), 21 U.S.C. 346a(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the pesticide petitions. After considering the public comments, EPA intends to evaluate whether and what action may be warranted. Additional data may be needed before EPA can make a final determination on these pesticide petitions.

Pursuant to 40 CFR 180.7(f), a summary of each of the petitions that are the subject of this document, prepared by the petitioner, is included in a docket EPA has created for each rulemaking. The docket for each of the petitions is available at *http://www.regulations.gov.*

As specified in FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), EPA is publishing notice of the petition so that the public has an opportunity to comment on this request for the establishment or modification of regulations for residues of pesticides in or on food commodities. Further information on the petition may be obtained through the petition summary referenced in this unit.

New Tolerances

1. *PP* 2E8098 (EPA–HQ–OPP–2014–0355). Syngenta Crop Protection, LLC, P.O. Box 18300, Greensboro, NC 27419, requests to establish an import tolerance in 40 CFR part 180 for residues of the new active ingredient herbicide, bicyclopyrone: 4-hydroxy-3-[2-[(2-methoxyethoxy) methyl]-6-(trifluoromethyl)-3-pyridylcarbonyl] bicyclo [3.2.1]oct-3-en-2-one.], in or on sugarcane, stalks at 0.01 parts per million (ppm). The Direct Analysis and Common Moiety Methods were used to measure and evaluate the chemical bicyclopyrone. Contact: RD.

2. *PP* 4F8269 (EPA–HQ–OPP–2014–0840). Syngenta Crop Protection, LLC, P.O. Box 18300, Greensboro, North Carolina, 27419–8300, requests to establish tolerances in 40 CFR 180.561 for residues of the fungicide, acibenzolar-*s*-methyl, in or on pome fruit, crop group 11–10 at 0.03 ppm; and citrus fruit, crop group 10–10 at 0.01 ppm. The analytical method AG–671A is a validated method for the determination and confirmation of acibenzolar-*s*-methyl in raw agricultural commodities and processing substrates at a limit of quantitation of 0.02 ppm. The method involves extraction, solid phase cleanup of samples with analysis by high performance liquid chromatography with ultraviolet detection, or confirmatory liquid chromatography with mass spectrometry. Contact: RD.

3. *PP* 4F8288 (EPA–HQ–OPP– 2014–0709). Bayer CropScience LP, 2 T.W. Alexander Drive, RTP, NC 27709, requests to establish tolerances in 40 CFR 180.555 for residues of the fungicide, trifloxystrobin, in or on leafy greens, subgroup 4A at 30 ppm; herb, subgroup 19A at 200 ppm; spice, subgroup 19B, except black pepper at 30 ppm; head and stem *Brassica,* subgroup 5A at 2 ppm; leafy *Brassica* greens, subgroup 5B at 30 ppm; tuberous and corm vegetables, subgroup 1C at 0.04 ppm; small fruit vine climbing (except fuzzy kiwifruit), subgroup 13–07F at 2.0 ppm; and low growing berry, subgroup 13–07G at 1.5 ppm. The gas chromatography method with nitrogen phosphorus detection (GC/NPD), Method AG–659A is used to measure and evaluate the chemicals trifloxystrobin and its metabolite CGA–321113. Contact: RD.

4. *PP* 4E8297 (EPA–HQ–OPP–2014–0574). Interregional Research Project Number 4 (IR–4), IR–4 Project Headquarters, Rutgers, The State University of New Jersey, Suite 201 W, 500 College Road East, Princeton, NJ 08540, requests to establish tolerances in 40 CFR 180.479 for residues of the herbicide, halosulfuron-methyl, methyl 5-[(4,6-dimethoxy-2-pyrimidiny)amino] carbonylaminosulfonyl]-3-chloro-1-methyl-1*H*-pyrazole-4-carboxylate, including its metabolites and degradates, in or on the raw agricultural commodities: Fruit, pome group 11–10 at 0.05 ppm, and a tolerance with regional restrictions for fruit, small vine climbing, except fuzzy kiwifruit, subgroup 13–07F at 0.05 ppm. The analytical method, gas chromatography with a nitrogen-specific detector, is available for enforcement purposes. Contact: RD.

5. *PP* 4F8305 (EPA–HQ–OPP–2014–0640). BASF Corporation, 26 Davis Drive, P.O. Box 13528, Research Triangle Park, NC 27709–3528, requests to establish a tolerance in 40 CFR part 180.649 for residues of the herbicide, saflufenacil (2-chloro-5-[3,6-dihydro-3-methyl-2,6-dioxo-4-(trifluoromethyl)-1(2*H*)-pyrimidinyl]-4-fluoro-*N*-[[methyl(1-methylethyl)amino]sulfonyl]benzamide) and its metabolites, *N*-[2-chloro-5-(2,6-dioxo-4-(trifluoromethyl)-3,6-dihydro-1(2*H*)-pyrimidinyl)-4-fluorobenzoyl]-*N'*-isopropylsulfamide and *N*-[4-chloro-2-fluoro-5-([[(isopropylamino)sulfonyl] amino]carbonyl)phenyl]urea, calculated as the stoichiometric equivalent of saflufenacil, in or on pomegranate at 0.03 ppm. Adequate enforcement methodology, LC/MS/MS method D0603/02, is available to enforce the tolerance expression. Contact: RD.

6. *PP* 4E8306 (EPA–HQ–OPP–2014–0672). IR–4, IR–4 Project Headquarters, Rutgers, The State University of New Jersey, 500 College Road East, Suite 201 W, Princeton, NJ 08540 requests the following: (1) To establish tolerances in 40 CFR 180.377 for the combined residues of the insecticide, diflubenzuron (*N*-[[(4-chlorophenyl)amino]carbonyl]-2,6-difluorobenzamide) and its metabolites 4-chlorophenlyurea and 4-chloroaniline, in or on the raw agricultural commodities carrot, roots at 0.2 ppm; peach subgroup 12–12B at 0.5 ppm; plum subgroup 12–12C at 0.5 ppm; plum, prune, dried at 0.5 ppm; nut, tree,

group 14–12 at 0.2 ppm; pepper/eggplant subgroup 8–10 B at 1.0 ppm, and cottonseed subgroup 20C at 0.2 ppm. Upon the approval of these tolerances, to remove established tolerances in or on fruit, stone, group 12, except cherry at 0.07 ppm; nut, tree, group 14 at 0.06 ppm; pistachio at 0.06 ppm; pepper at 1.0 ppm; and cotton, undelinted seed at 0.2 ppm. (2) to establish a regional tolerance for the combined residues of diflubenzuron and its metabolites 4-chlorophenlyurea and 4-chloroaniline in or on the raw agricultural commodities alfalfa, forage at 6 ppm; alfalfa, hay at 20 ppm; and alfalfa, seed at 0.9 ppm. Adequate enforcement analytical methods for determining diflubenzuron and its metabolites in/on appropriate raw agricultural commodities and processed commodities are available for the established and proposed tolerances. Contact: RD.

7. *PP* 4E8309 (EPA–HQ–OPP–2013–0428). IR–4, IR–4 Project Headquarters, Rutgers, The State University of New Jersey, 500 College Road East, Suite 201 W, Princeton, NJ 08540, requests to establish tolerances in 40 CFR 180.449 for residues of the insecticide, abamectin, including its metabolites and degradates, determined by measuring only avermectin B_1 a mixture of avermectins containing greater than or equal to 80% avermectin B_1 a (5-*O*-demethyl avermectin A_1) and less than or equal to 20% avermectin B_1b (5-*O*-demethyl-25-de(1-methylpropyl)-25-(1-methylethyl) avermectin A_1) and its delta-8,9-isomer, in or on the raw agricultural commodities: Fruit, stone, group 12–12 at 0.09 ppm, fruit, small, vine climbing, except fuzzy kiwifruit, subgroup 13–07F at 0.02 ppm, nut, tree, group 14–12 at 0.01 ppm, vegetable, fruiting, group 8–10 at 0.07 ppm, fruit, citrus, group 10–10 at 0.02 ppm, berry, low growing, subgroup 13–07G at 0.05 ppm, fruit, pome, group 11–10 at 0.02 ppm, papaya at 0.40 ppm, star apple at 0.40 ppm, black sapote at 0.40 ppm, sapodilla at 0.40 ppm, canistel at 0.40 ppm, mamey sapote at 0.40 ppm, guava at 0.015 ppm, feijoa at 0.015 ppm, jaboticaba at 0.015 ppm, wax jambu at 0.015 ppm, starfruit at 0.015 ppm, passionfruit at 0.015 ppm, acerola at 0.015 ppm, lychee 0.01 ppm, longan at 0.01 ppm, Spanish lime at 0.01 ppm, rambutan at 0.01 ppm, pulasan at 0.01 ppm, pineapple at 0.015 ppm, bean at 0.015 ppm, and onion, green, subgroup 3–07B at 0.08 ppm. Upon the approval of the aforementioned tolerances, IR–4 proposes to remove established tolerances of abamectin, including its metabolites and degradates, in or on the following commodities: Bean, dry, seed at 0.01 ppm, citrus at 0.02 ppm, apple at 0.02 ppm, pear at 0.02 ppm, fruit, stone, group 12 at 0.09 ppm, nut, tree, group 14 at 0.01 ppm, pistachio at 0.01 ppm, grape at 0.02 ppm, strawberry at 0.05 ppm and vegetable, fruiting, group 8 at 0.02 ppm. The analytical methods involve homogenization, filtration, partition, and cleanup with analysis by high performance liquid chromatography (HPLC)-fluorescence detection. Contact: RD.

8. *PP* 4E8310 (EPA–HQ–OPP–2014–0769). IR–4, IR–4 Project Headquarters, Rutgers, The State University of New Jersey, 500 College Road East, Suite 201 W, Princeton, NJ 08540, requests to establish a tolerance in 40 CFR part 180.155 for residues of the plant growth regulator, 1-naphthaleneacetic acid, including its metabolites and degradates, determined by measuring only 1-naphthaleneacetic acid and its conjugates, calculated as the stoichiometric equivalent of 1-naphthaleneacetic acid, in or on the raw agricultural commodity pomegranate at 0.05 ppm. The analytical method involves extraction of residues in pomegranate including 1-napthaleneacetic acid, 1-napthaleneacetamide, and 1-napthaleneacetic acid, ethyl ester that are then converted to the parent, 1-napthaleneacetic acid. The analyte concentration is determined by high performance liquid chromatography (HPLC) using fluorescence detection. Contact: RD.

9. *PP* 4E8312 (EPA–HQ–OPP–2014–0749). IR–4, IR–4 Project Headquarters, Rutgers, The State University of New Jersey, 500 College Road East, Suite 201 W, Princeton, NJ 08540 requests to establish tolerances in 40 CFR 180.446 for residues of the acaricide, clofentezine, in or on the raw agricultural commodities avocado at 0.3 ppm; papaya at 0.3 ppm; fruit, pome, group 11–10 at 0.5 ppm; cherry, subgroup 12–12A at 1.0 ppm; peach, subgroup 12–12B at 1.0 ppm; and fruit, small, vine climbing, except fuzzy kiwifruit, subgroup 13–07F at 1.0 ppm. Upon the approval of the aforementioned tolerances, IR–4 proposes that the existing tolerances for apple at 0.5 ppm; pear at 0.5 ppm; cherry at 1.0 ppm; nectarine at 1.0 ppm; peach at 1.0 ppm; and grape at 1.0 ppm be removed as unnecessary. An adequate method for purposes of enforcement of the proposed clofentezine tolerance is available. An independent method validation was successfully completed, and the method was found acceptable. An extensive database of method validation data using this method on various crop commodities is available. The limit of quantitation (LOQ) and minimum detection limit (MDL) were determined to be 0.01 ppm and 0.003 ppm, respectively. Contact: RD.

10. *PP* 4F8315 (EPA–HQ–OPP–2014–0804). Gowan Company, P.O. Box 5569, Yuma, AZ, 85366–5569, requests to establish tolerances in 40 CFR part 180.448 for residues of the insecticide, hexythiazox, in or on wheat, forage at 6.0 parts per million (ppm); wheat, hay at 30 ppm; wheat, grain at 0.02 ppm; and wheat, straw at 8.0 ppm. High performance liquid chromatography (HPLC) method using mass spectrometric detection (LC–MS/MS) is proposed for enforcement purposes. Contact: RD.

11. *PP* 4E8321 (EPA–HQ–OPP–2014–0788). IR–4, IR–4 Project Headquarters, Rutgers, The State University of New Jersey, 500 College Road East, Suite 201 W, Princeton, NJ 08540, requests to establish tolerances in 40 CFR 180.434 for residues of the fungicide, propiconazole, 1-[[2-(2,4-dichlorophenyl)-4-propyl-1,3-dioxolan-2-yl] methyl]-1*H*-1,2,4-triazole and its metabolites determined as 2,4,-dichlorobenzoic acid (2,4–DCBA), expressed as the stoichiometric equivalent of propiconazole, in or on the raw agricultural commodities: Dill, fresh at 30 ppm; dill, dried at 80 ppm; dill, seed at 15 ppm; leafy *Brassica* greens, subgroup 5B at 20 ppm; radish, tops at 0.2 ppm; radish, roots at 0.04 ppm; Ti palm, leaves at 10 ppm; Ti palm, roots at 0.3 ppm, watercress at 6 ppm, fruit, stone, group 12–12, except plum at 4 ppm and nut, tree, group 14–12 at 0.1 ppm. Analytical methods AG–626 and AG–454A were developed for the determination of residues of propiconazole and its metabolites containing the DCBA moiety. Analytical method AG–626 has been accepted and published by EPA as the tolerance enforcement method for crops. The limit of quantitation (LOQ) for the method is 0.05 ppm. Contact: RD.

Amended Tolerances

1. *PP* 3F8209 (EPA–HQ–OPP–2014–0149). Syngenta Crop Protection, LLC, P.O. Box 18300, Greensboro, North Carolina, 27419–8300, requests to increase the tolerances in 40 CFR part 180.475 for residues of the fungicide, difenoconazole, in or on fruit, pome, group 11–10 from 1 ppm to 3 ppm, and for apple, wet pomace from 4.5 ppm to 7.5 ppm. An adequate enforcement method, GC/NPD method AG–575B, is available for the determination of residues of difenoconazole *per se* in/on plant commodities. An adequate

enforcement method, LC/MS/MS method REM 147.07b, is available for the determination of residues of difenoconazole and CGA–205375 in livestock commodities. Contact: RD.

2. *PP 4F8288* (EPA–HQ–OPP– 2014–0709). Bayer CropScience LP, 2 T.W. Alexander Drive, RTP, NC 27709, requests to amend the tolerance in 40 CFR 180.555 for residues of the fungicide, trifloxystrobin, in or on leafy petioles, group 4B from 3.5 to 9 ppm. The gas chromatography method with nitrogen phosphorus detection (GC/NPD), method AG–659A is used to measure and evaluate the chemicals trifloxystrobin and its metabolite CGA–321113. Contact: RD.

3. *PP* 4E8306 (EPA–HQ–OPP–2014–0672). IR–4, IR–4 Project Headquarters, Rutgers, The State University of New Jersey, 500 College Road East, Suite 201 W, Princeton, NJ 08540, requests that the existing tolerances in 40 CFR 180.377 for the insecticide, diflubenzuron, in or on the following raw agricultural commodities be modified: Egg from 0.05 to 0.15 ppm; poultry, fat from 0.05 to 0.15 ppm; and poultry, meat byproducts from 0.05 to 0.06 ppm. Adequate enforcement analytical methods for determining diflubenzuron and its metabolites, 4-chlorophenlyurea and 4-chloroaniline in/on appropriate raw agricultural commodities and processed commodities are available for the established and proposed tolerances. Contact: RD.

4. *PP* 4E8307 (EPA–HQ–OPP–2014–0740). IR–4, IR–4 Project Headquarters, Rutgers, The State University of New Jersey, 500 College Road East, Suite 201 W, Princeton, NJ 08450, requests that the existing tolerances with regional restrictions in 40 CFR part 180.578(c) for residues of the insecticide, acetamiprid (1*E*)-*N*-[(6-chloro-3-pyridinyl)methyl]-*N'*-cyano-*N*-methylethanimidamide, including its metabolites and degradates, in or on the following raw agricultural commodities be modified: Clover, forage from 0.10 ppm to 0.3 ppm, and clover, hay from 0.01 ppm to 1.5 ppm. The analytical method involves extraction of acetamiprid from crop matrices and analysis by liquid chromatography (LC)/mass spectroscopy (MS)/methods. Contact: RD.

New Tolerance Exemption

IN-10754 (EPA–HQ–OPP–2014–0677). Evonik Corporation, 299 Jefferson Rd., Parsippany, NJ 07054, requests to establish an exemption from the requirement of a tolerance for residues for 2-propenoic acid, 2-methyl-, 2-methylpropyl ester, homopolymer (CAS No 9011–15–8) with a minimum number average molecular weight (in amu) of 55,000, when used as a pesticide inert ingredient in pesticide formulations under 40 CFR 180.960. The petitioner believes no analytical method is needed because it is not relevant based upon the definition of a low risk polymer under 40 CFR 723.250. Contact: RD.

Authority: 21 U.S.C. 346a.

Dated: January 30, 2015.

Susan Lewis,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 2015–02611 Filed 2–10–15; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[GN Docket No. 12–268, ET Docket Nos. 13–26 and 14–14; Report No. 3015]

Petitions for Reconsideration of Action in Rulemaking Proceeding

AGENCY: Federal Communications Commission.

ACTION: Petition for reconsideration.

SUMMARY: Petitions for Reconsideration (Petitions) have been filed in the Commission's Rulemaking proceeding by Donald G. Everist, on behalf of Cohen, Dippell and Everist, P.C.; Rick Kaplan, on behalf of National Association of Broadcasters; Lawrence R. Krevor, on behalf of Sprint Corporation.

DATES: Oppositions to the Petitions must be filed on or before February 26, 2015. Replies to an opposition must be filed on or before March 9, 2015.

ADDRESSES: Federal Communications Commission, 445 12th Street SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Aspasia Paroutsas, Office of Engineering and Technology Bureau, 202–418–7285, *Aspasia.Paroutsas@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of Commission's document, Report No. 3015, released January 30, 2015. The full text of this document is available for viewing and copying in Room CY–B402, 445 12th Street SW., Washington, DC or may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI) (1–800–378–3160). The Commission will not send a copy of this *Notice* pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A) because this notice does not have an impact on any rules of particular applicability.

Subject: Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, published at 79 FR 76903, December 23, 2014, in GN Docket No. 12–268; ET Docket Nos. 13–26 and 14–14, and this notice is published pursuant to 47 CFR 1.429(e) of the Commission's rules. *See also* 47 CFR 1.4(b)(1) of the Commission's rules.

Number of Petitions Filed: 3

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2015–02716 Filed 2–10–15; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

RIN 0648–BB92

Magnuson-Stevens Act Provisions; National Standard Guidelines; Meeting Announcement

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

ACTION: Notice of public meeting.

SUMMARY: NMFS announces a public meeting to solicit comments on the proposed revisions to the General section of the National Standard (NS) guidelines and the guidelines for NS1, NS3, and NS7 of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), which published January 20, 2015.

DATES: The meeting will be held on March 25, 2015, from 2:00 p.m. to 4:00 p.m. Eastern time. Written comments accepted through June 30, 2015.

ADDRESSES: The meeting will be held at the following location: The NOAA Science Center, 1301 East West Highway, Silver Spring, MD, 20910; telephone: 301–427–8563.

You may submit written comments on the proposed rule, identified by NOAA–NMFS–2012–0059, by any of the following methods:

- Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to: *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2012-0059,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.

• Mail: Submit written comments to Wesley Patrick, National Marine Fisheries Service, NOAA, Office of Sustainable Fisheries, 1315 East-West Highway, Room 13357, Silver Spring, MD 20910.

• Fax: 301–713–1193; Attn: Wesley Patrick.

FOR FURTHER INFORMATION CONTACT: Wesley Patrick at (301) 427–8563 or via email at *Wesley.Patrick@noaa.gov.*

SUPPLEMENTARY INFORMATION: On January 20, 2015, NMFS published proposed revisions to the General section of the National Standard (NS) guidelines and the guidelines for NS1, NS3, and NS7 in the **Federal Register** (80 FR 2786). The proposed revisions include the following: (1) Add a recommendation that Councils reassess the objectives of their fisheries on a regular basis; (2) consolidate and clarify guidance on identifying whether stocks require conservation and management; (3) provide additional flexibility in managing data limited stocks; (4) revise the guidance on stock complexes to encourage the use of indicator stocks; (5) describe how aggregate maximum sustainable yield (MSY) estimates can be used; (6) propose a definition for a depleted stock; (7) provide increased stability in fisheries by providing guidance on the use of multi-year overfishing determinations; (8) revise the guidance on optimum yield (OY) to improve clarity and better describe the role of OY under the Annual Catch Limit (ACL) framework; (9) clarify the guidance on acceptable biological catch (ABC) control rules, describe how the ABC control rules can allow for phase-in adjustments to ABC, and allow for carry-over of all or some of an unused portion of the ACL; (10) revise the guidance on accountability measures (AMs) to improve clarity; (11) clarify the guidance on establishing ACL and AM mechanisms in FMPs; and (12) provide flexibility in rebuilding stocks. Additional information about this proposed rule can be found at *http://www.nmfs.noaa.gov/sfa/laws_policies/national_standards/ns1_revisions.html.*

Special Accommodations

These meetings are accessible to people with disabilities. Requests for sign language interpretation or other aids, and requests for special accommodations or needs should be directed to Wesley Patrick at (301) 427–8563 at least 5 business days in advance of the meeting date.

Authority: 5 U.S.C. 561 and 16 U.S.C. 1801 *et seq.*

Dated: February 6, 2015.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2015–02889 Filed 2–10–15; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 80, No. 28
Wednesday, February 11, 2015

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Tongass Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Tongass Advisory Committee (Committee) will meet in Juneau, Alaska. The Committee is established consistent with the Federal Advisory Committee Act of 1972 (5 U.S.C. App. 2). Committee recommendations and advice may directly inform the development of a proposed action for modification of the 2008 Tongass Land Management Plan. The meeting is open to the public. Additional information concerning the Committee, including the meeting summary/minutes, can be found by visiting the Committee's Web site at: *http://www.fs.usda.gov/goto/R10/Tongass/TAC.*

DATES: The meeting will be held on:

- February 17, 2015 from 8:30 a.m. to 5:00 p.m. (AKDT).
- February 18, 2015 from 8:30 a.m. to 5:00 p.m. (AKDT).
- February 19, 2015 from 8:30 a.m. to 4:00 p.m. (AKDT).

All meetings are subject to change and cancellation. For updated status of the meetings prior to attendance, please visit the Web site listed in the **SUMMARY** section, or contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meetings will be held at the Extended Stay America, 1800 Shell Simmons Drive, Juneau, Alaska 99801. 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 Tongass National Forest Office. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Marina Whitacre, Committee Coordinator, by phone at 907–772–5934, or by email at *mwhitacre@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.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

(1) Finalize recommendations on Plan Amendment components (*e.g.,* standards and guidelines, LUDs, land base, CMAI, etc.);

(2) Implement strategy discussions;

(3) Prepare for release of final recommendations package.

There will be time allotted on the agenda for oral public comment. Those interested can register at the meeting. In addition, written statements may be filed with the Committee's staff before or after the meeting. Written comments may also be submitted by mail to Jason Anderson, Designated Federal Officer, Tongass National Forest, P.O. Box 309, Petersburg, Alaska 99833; or email to *jasonanderson@fs.fed.us,* or facsimile to 907–772–5895. Summary/minutes of the meeting will be posted on the Web site listed above within 45 days after the meeting.

Delayed Notice: Due to organizational changes within the agency, and recent changes to meeting location and dates to accommodate committee participation, this notice has not been published within 15 calendar-days of the February meeting.

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: February 6, 2015.

Angela V. Coleman,

Acting Chief of Staff, Forest Service.

[FR Doc. 2015–02870 Filed 2–10–15; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Opportunity for Designation in the Topeka, KS; Cedar Rapids, IA; Minot, ND; and Cincinnati, OH, Areas; Request for Comments on the Official Agencies Servicing These Areas

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Notice.

SUMMARY: The designations of the official agencies listed below will end on June 30, 2015. We are asking persons or governmental agencies interested in providing official services in the areas presently served by these agencies to submit an application for designation. In addition, we are asking for comments on the quality of services provided by the following designated agencies: Kansas Grain Inspection Service, Inc. (Kansas); Mid-Iowa Grain Inspection, Inc. (Mid-Iowa); Minot Grain Inspection, Inc. (Minot); and Tri-State Grain Inspection Service, Inc. (Tri-State).

DATES: Applications and comments must be received by March 13, 2015.

ADDRESSES: Submit applications and comments concerning this Notice using any of the following methods:

- *Applying for Designation on the Internet:* Use FGISonline (*https://fgis.gipsa.usda.gov/default_home_FGIS.aspx*) and then click on the Delegations/Designations and Export Registrations (DDR) link. You will need to obtain an FGISonline customer number and USDA eAuthentication username and password prior to applying.
- *Submit Comments Using the Internet:* Go to Regulations.gov (*http://www.regulations.gov*). Instructions for submitting and reading comments are detailed on the site.
- *Mail, Courier or Hand Delivery:* Eric J. Jabs, Deputy Director, USDA, GIPSA, FGIS, QACD, 10383 North Ambassador Drive, Kansas City, MO 64153.
- *Fax:* Eric J. Jabs, 816–872–1257.
- *Email: Eric.J.Jabs@usda.gov.*

Read Applications and Comments: All applications and comments will be available for public inspection at the office above during regular business hours (7 CFR 1.27(c)).

FOR FURTHER INFORMATION CONTACT: Eric J. Jabs, 816–659–8408 or *Eric.J.Jabs@usda.gov.*

SUPPLEMENTARY INFORMATION: Section 79(f) of the United States Grain Standards Act (USGSA) authorizes the Secretary to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services (7 U.S.C. 79(f)). Under section 79(g) of the USGSA, designations of official agencies are effective for three years unless terminated by the Secretary, but may be renewed according to the criteria and procedures prescribed in section 79(f) of the USGSA.

Areas Open for Designation

Kansas

Pursuant to section 79(f)(2) of the United States Grain Standards Act, the following geographic area, in the States of Colorado, Kansas, Nebraska, and Wyoming are assigned to this official agency.

In Colorado

The entire State of Colorado.

In Kansas

The entire State of Kansas.

In Nebraska

Bounded on the North by the northern Scotts Bluff County line; the northern Morrill County line east to Highway 385;

Bounded on the East by Highway 385 south to the northern Cheyenne County line; the northern and eastern Cheyenne County lines; the northern and eastern Deuel County lines;

Bounded on the South by the southern Deuel, Cheyenne, and Kimball County lines; and

Bounded on the West by the western Kimball, Banner, and Scotts Bluff County lines.

In Wyoming

Goshen, Laramie, and Platt Counties.

The following grain elevators are not part of this geographic area assignment and are assigned to: Hastings Grain Inspection, Inc.: Farmers Coop and Big Springs Elevator, Big Springs, Deuel County, Nebraska.

Mid-Iowa

Pursuant to section 79(f)(2) of the United States Grain Standards Act, the following geographic area, in the States of Minnesota and Iowa, is assigned to this official agency.

In Minnesota

Wabasha, Olmstead, Winona, Houston, and Fillmore Counties.

In Iowa

Bounded on the North by the northern Winneshiek and Allamakee County lines;

Bounded on the East by the eastern Allamakee County line; the eastern and southern Clayton County lines; the eastern Buchanan County line; the northern and eastern Jones County lines; the eastern Cedar County line south to State Route 130;

Bounded on the South by State Route 130 west to State Route 38; State Route 38 south to Interstate 80; Interstate 80 west to U.S. Route 63; and

Bounded on the West by U.S. Route 63 north to State Route 8; State Route 8 east to State Route 21; State Route 21 north to D38; D38 east to State Route 297; State Route 297 north to V49; V49 north to Bremer County; the southern Bremer County line; the western Fayette and Winneshiek County lines.

Minot

Pursuant to section 79(f)(2) of the United States Grain Standards Act, the following geographic area, in the State of North Dakota, is assigned to this official agency.

In North Dakota

Bounded on the North by the North Dakota State line east to the eastern Bottineau County line;

Bounded on the East by the eastern Bottineau County line south to the northern Pierce County line; the northern Pierce County line east to State Route 3; State Route 3 south to State Route 200;

Bounded on the South by State Route 200 west to State Route 41; State Route 41 south to U.S. Route 83; U.S. Route 83 northwest to State Route 200; State Route 200 west to U.S. Route 85; U.S. Route 85 south to Interstate 94; Interstate 94 west to the North Dakota State line; and

Bounded on the West by the North Dakota State line.

The following grain elevators are part of this geographic area assignment. In Grain Inspection, Inc.'s, area: Benson Quinn Company, Underwood, McLean County; and Falkirk Farmers Elevator, Washburn, McLean County, North Dakota.

Tri-State

Pursuant to section 79(f)(2) of the United States Grain Standards Act, the following geographic area, in the States of Indiana, Kentucky, and Ohio, is assigned to this official agency.

In Indiana

Dearborn, Decatur, Franklin, Ohio, Ripley, Rush (south of State Route 244), and Switzerland Counties.

In Kentucky

Bath, Boone, Bourbon, Bracken, Campbell, Clark, Fleming, Gallatin, Grant, Harrison, Kenton, Lewis (west of State Route 59), Mason, Montgomery, Nicholas, Owen, Pendleton, and Robertson Counties.

In Ohio

Bounded on the North by the northern Preble County line east; the western and northern Miami County lines east to State Route 296; State Route 296 east to State Route 560; State Route 560 south to the Clark County line; the northern Clark County line east to U.S. Route 68;

Bounded on the East by U.S. Route 68 south to U.S. Route 22; U.S. Route 22 east to State Route 73; State Route 73 southeast to the Adams County line; the eastern Adams County line;

Bounded on the South by the southern Adams, Brown, Clermont, and Hamilton County lines; and

Bounded on the West by the western Hamilton, Butler, and Preble County lines.

Opportunity for Designation

Interested persons or governmental agencies may apply for designation to provide official services in the geographic areas specified above under the provisions of section 79(f) of the USGSA and 7 CFR 800.196. Designation in the specified geographic areas is for the period beginning July 1, 2015, and ending June 30, 2018. To apply for designation or for more information, contact Eric J. Jabs at the address listed above or visit GIPSA's Web site at *http://www.gipsa.usda.gov.*

Request for Comments

We are publishing this Notice to provide interested persons the opportunity to comment on the quality of services provided by the Kansas, Mid-Iowa, Minot, and Tri-State official agencies. In the designation process, we are particularly interested in receiving comments citing reasons and pertinent data supporting or objecting to the designation of the applicants. Submit all comments to Eric J. Jabs at the above address or at *http://www.regulations.gov.*

We consider applications, comments, and other available information when determining which applicants will be designated.

Authority: 7 U.S.C. 71–87k.

Larry Mitchell,

Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 2015–02744 Filed 2–10–15; 8:45 am]

BILLING CODE 3410–KD–P

DEPARTMENT OF AGRICULTURE

Office of Advocacy and Outreach

[FOA No.: OAO–00009]

Funding Opportunity Announcement

Catalog of Federal Domestic Assistance (CFDA) No.: 10.464—Socially Disadvantaged Farmers and Ranchers Policy Research Center.

AGENCY: Office of Advocacy and Outreach (OAO), U.S. Department of Agriculture (USDA).

ACTION: Funding Opportunity Announcement (FOA).

SUMMARY: This notice announces the availability of funds and solicits applications from eligible institutions to compete for financial assistance in the form of a grant to establish a Socially Disadvantaged Farmers and Ranchers Policy Research Center (The Center) at an 1890 Institution (as defined in 7 U.S.C. 7601).

Authority: The Agricultural Act of 2014, Title XII, Subtitle B, provides funding for a ''Socially Disadvantaged Farmers and Ranchers Policy Research Center.'' Section 12203 directs the Secretary to award a grant to a college or university eligible to receive funds under the Act of August 30, 1890 [Second Morrill Act] (7 U.S.C. 321 *et seq.*), including Tuskegee University, to establish a policy research center to be known as the ''Socially Disadvantaged Farmers and Ranchers Policy Research Center'' for the purpose of developing policy recommendations for the protection and promotion of the interests of socially disadvantaged farmers and ranchers.

The Center will collect and analyze data, develop policy recommendations, and evaluate policy concerning socially disadvantaged farmer and rancher issues. ''Socially Disadvantaged Farmers and Ranchers'' is defined in 7 U.S.C. 2279.

We will award $400,000 in fiscal year (FY) 2015, ending September 30. Additional funds may be awarded to the successful grantee through FY 2018 without further competition.

DATES: Proposals must be received by April 13, 2015, at 5:00 p.m. Eastern Standard Time (EST), at *www.grants.gov.* Proposals received after this deadline will *not* be considered for funding.

ADDRESSES:

How to File a Complaint of Discrimination: To file a complaint of discrimination, complete the USDA Program Discrimination Complaint Form, which may be accessed online at *http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain_combined_6_8_12.pdf,* or write a letter signed by you or your authorized representative.

Send your completed complaint form or letter to USDA by mail, fax, or email:

Mail: U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW., Washington, DC 20250–9410/.

Fax: (202) 690–7442.

Email: program.intake@usda.gov.

FOR FURTHER INFORMATION CONTACT:

Agency Contact: U.S. Department of Agriculture, Office of Advocacy and Outreach, Attn: Kenya Nicholas, Program Director, Whitten Building Room 520–A, 1400 Independence Avenue SW., Washington, DC 20250, Phone: (202) 720–6350, Fax: (202) 720–7136, Email: *OASDVFR2015@osec.usda.gov.*

Persons with Disabilities: Persons who require alternative means for communication (Braille, large print, audiotape, etc.), should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

SUPPLEMENTARY INFORMATION:

Funding/Awards

The total funding available for this competitive opportunity is $400,000. The OAO will award one new grant from this announcement.

Contents of This Announcement

I. Funding Opportunity Description
II. Award Information
III. Eligibility Information
IV. Proposal and Submission Information
V. Competitive Review and Evaluation Criteria
VI. Award Administration Information

I. Funding Opportunity Description

USDA's Office of Advocacy and Outreach (OAO) invites submission of proposals for a competitive grant award to establish a new USDA Socially Disadvantaged Farmers and Ranchers Policy Research Center (The Center). The Center will specialize in policy research impacting socially disadvantaged farmers and ranchers. Land loss, land retention, and access to local, state, and federal programs will be major areas of research and policy development. The Center's director and staff will have experience and/or education required to understand the socially disadvantaged farmers and ranchers communities. The Center will propose how they will work with other institutions, as appropriate, inside and outside the land grant community.

Proposed recommendations resulting from the following list of activities, including but not limited to, shall be submitted to the Director of OAO:

- Analyze current agriculture policy and its implications on socially disadvantaged farmers and ranchers.
- Collect data on where USDA meetings are being held, and how socially disadvantaged farmers and ranchers participate.
- Make recommendations on improving participation rates of socially disadvantaged farmers and ranchers.
- Provide recommendations on how to improve diversity of county office staff and committees.
- Provide recommendations on actions to improve USDA program agencies' outreach and technical assistance to socially disadvantaged farmers and ranchers.
- Collect data on the history of the education of socially disadvantaged farmers and ranchers and evaluate the results of past educational efforts in the South and the ability of higher education institutions to meet the educational needs of socially disadvantaged farmers and ranchers today.
- Collect data on how socially disadvantaged farmers and ranchers receive agricultural information.
- Determine how many socially disadvantaged farmers and ranchers have access to information technology equipment and broadband.
- Determine how many socially disadvantaged farmers and ranchers have received training on the use of information technology (IT) equipment and provide recommendations on ways to increase the utilization of IT for their farming organizations.
- Provide recommendations on improving the application approval process for socially disadvantaged farmers and ranchers applying for USDA assistance. Determine how past discrimination impacts access to present programs and provide recommendations to improve participation among socially disadvantaged farmers and ranchers.
- Collect data on the reasons for the decline of farm, ranch, and land ownership by socially disadvantaged farmers and ranchers. Provide recommendations on how to track and maintain current data on the number and location of socially disadvantaged farmers and ranchers.
- Analyze data collected from all sources, and develop policy recommendations that will enable socially disadvantaged farmers and

ranchers to stay in farming and to preserve their lands.

II. Award Information

A. Statutory Authority

The statutory authority for this action is section 2501(i) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(i)), as added by section 12203 of the Agricultural Act of 2014, Public Law 113–79, which directs the Secretary of Agriculture to ''award a grant to a college or university eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321 *et seq.*), including Tuskegee University, to establish a policy research center to be known as the 'Socially Disadvantaged Farmers and Ranchers Policy Research Center' for the purpose of developing policy recommendations for the protection and promotion of the interests of socially disadvantaged farmers and ranchers.''

B. Expected Amount of Funding

OAO expects to make one award in FY 2015 of $400,000 to fund the Center. Institutions shall submit only one proposal.

C. Project Period

The project period for the award resulting from this solicitation will not begin prior to the effective award date. Initial funding will be provided for one year. Funding may be extended without further competition through FY 2018, provided that performance has been satisfactory, appropriations are available for this purpose, and continued support would be in the best interest of the Federal Government and the public.

D. Award Type

Funding for the selected proposal will be in the form of a grant which must be fully executed no later than September 31, 2015. The anticipated Federal involvement will be limited to the following activities:

- Approval of awardees' final budget and statement of work accompanying the grant agreement;
- Monitoring of awardees' performance through quarterly and final reports;
- Evaluation of and feedback on awardees' use of federal funds through periodic performance and financial reports and on-site visits to ensure that objectives and award conditions are being met; and
- Facilitation of communication between the Center and USDA program agencies such as the Farm Service Agency, Natural Resources Conservation Service, Risk Management Agency, Rural Development, Forest Service, Agricultural Research Service and the USDA Office of Tribal Relations.

III. Eligibility Information

- *Eligible Applicants*

Any 1890 Institution (as defined in 7 U.S.C. 7601) may apply.

Cost-Sharing or Matching

Matching is not required for this program.

Threshold Eligibility Criteria

Applications from eligible entities that meet all criteria will be evaluated as follows:

1. Proposals must comply with the submission instructions and requirements set forth in Section IV of this announcement. Pages in excess of the page limitation will not be considered.
2. Proposals must be received through *www.grants.gov* as specified in Section IV of this announcement on or before the proposal submission deadline. Applicants will receive an electronic confirmation receipt of their proposal from *www.grants.gov.*
3. Proposals received after the submission deadline will not be considered.

IV. Proposal and Submission Information

A. Obtain Proposal Package

Applicants may download individual grant proposal forms from *www.grants.gov.* For assistance with *www.grants.gov,* please consult the Applicant User Guide at (*http://grants.gov/assets/ApplicantUserGuide.pdf*).

B. Form of Proposal Submission

Applicants are required to submit proposals through *www.grants.gov.* Applicants will be required to register through *www.grants.gov* in order to begin the proposal submission process.

Proposals must be submitted by April 13, 2015, via *www.grants.gov* by 5:00 p.m. EST. Proposals received after this deadline will not be considered.

C. Content of Proposal Package Submission

These guidelines are provided to assist you in preparing a proposal. Please read them carefully before preparing your submission.

All submissions must contain completed and electronically signed original application forms, as well as the attachments described below:

- Forms. The listed forms can be found in the proposal package at *www.grants.gov.*

1. Standard Form 424, Application for Federal Assistance;
2. Standard Form 424A, Budget Information—Non-Construction Programs;
3. Standard Form 424B, Non-Construction Programs

- Attachments. These elements are required for all grant proposals and are included in the proposal package at *www.grants.gov* as fillable PDF templates. Applicants must download and complete these attachments and save the completed PDF files to the application submission portal at *www.grants.gov.* NOTE: Please number each page of each attachment and indicate the total number of pages per attachment (*i.e.,* 1 of 10, 2 of 10, etc.).

○ Attachment 1: Program Summary Page. The proposal must contain a Program Summary Page, which must follow immediately after the budget form, and should not be numbered. The program summary is limited to 250 words. The program summary should be a self-contained, specific description of the activities to be undertaken. The summary should focus on the overall program goals and supporting objectives and plans to accomplish the goals. The importance of a concise, informative program summary cannot be overemphasized.

○ Attachment 2: Statement of Work. The statement of work format should be *25 double-spaced pages or less,* one-inch margins, and 12-point font. The overall application may not exceed 45 pages, including attachments. The proposal should be assembled so that the statement of work immediately follows the Program Summary. To clarify page limitation requirements, page numbering for the statement of work should start with 1 and should be placed on the bottom of the page. All proposals are to be formatted for standard 8½″ x 11″ paper. The statement of work must address the following components:

(1) Active Research

A plan discussing the kind of socially disadvantaged farmer and rancher activities needed to inform important issues in the development of agriculture policy impacts to socially disadvantaged farmers and ranchers. The plan should demonstrate the applicant's deep knowledge of policy issues, past research projects and their impacts, and how current and future studies can contribute to the current knowledge base. The plan should describe how the Center will implement and develop the capacity to conduct research on issues relevant to agricultural policy. The plan should outline a strategy for

collaborating with OAO and USDA program agencies for the purpose of identifying topics and making recommendations on agricultural policy relating to socially disadvantaged farmers and ranchers.

(2) Staffing and Organizational Plan

The application must include a staffing and organizational proposal for the Center, including an analysis of the types of background needed among staff members. The application should discuss the Center's capacity to collaborate and issue sub-awards to researchers outside of the Center. Full resumes (2 page maximum) of proposed staff members should be included as a separate appendix to the application.

○ Attachment 3: Budget Narrative. The budget narrative should identify and describe the costs associated with the proposed Center, including sub-awards or contracts and indirect costs. Other funding sources may also be identified in this attachment. Each cost indicated must be fully allowable under the Federal Cost Principles in order to be funded. The budget narrative should not exceed 2 pages.

Funds may be requested under any of the budget categories listed below, provided that the item or service requested is identified as necessary for successful conduct of the proposed program, allowable under applicable Federal cost principles, and not prohibited under any applicable Federal statute or regulation.

Budget items include:

- Personnel
- Fringe benefits
- Travel
- Equipment
- Supplies
- Contractual items
- Other direct costs
- Indirect charges

Salaries of faculty members and other personnel who will be working on the program may be requested in proportion to the effort they will devote to the program.

Indirect costs are limited by Federal statute to the federally recognized audited rate for the institution. For reimbursement of indirect costs, the applicant must include with the application a copy of its indirect cost rate schedule that reports the applicant's federally negotiated audited rate.

Electronic copies of the standard budget form and general instructions are available at *www.grants.gov* as part of the application package.

○ Attachment 4: Appendices. Letters of Commitment, Letters of Support, and approvals or other actions are encouraged but not required documentation for this funding opportunity. However, applicants can consolidate all supplemental materials into one additional attachment. Do not include sections from other attachments as an Appendix.

D. Sub-Awards and Partnerships

The OAO awards funds to one eligible applicant as the awardee. Please indicate a lead applicant as the responsible party if other eligible applicants are named as partners or co-applicants or members of a coalition or consortium. The awardee is accountable to the OAO for the proper expenditure of all funds.

Funding may be used to provide sub-awards, which includes using sub-awards to fund partnerships; however, the awardee must utilize at least 50 percent of the total funds awarded, and no more than three subcontracts will be permitted. All sub-awardees must comply with applicable requirements for sub-awards. Applicants must compete for services, contracts, and products, including consultant contracts, and conduct cost and price analyses to the extent required by applicable procurement regulations.

E. Submission Dates and Times

The closing date and time for receipt of proposal submissions is April 13, 2015, by 5:00 p.m., EST via *www.grants.gov.* Proposals received after the submission deadline will be considered late and will not be evaluated.

F. Confidential Information

In accordance with 7 CFR 2500.017, the names of entities submitting proposals, as well as proposal content and evaluations, will be kept confidential to the extent permissible by law. If an applicant chooses to include confidential or proprietary information in the proposal, it will be treated in accordance with Exemption 4 of the Freedom of Information Act (FOIA). Exemption 4 of the FOIA protects trade secrets, and commercial and financial information obtained from a person that is privileged or confidential.

G. Pre-Submission Proposal Assistance

- The OAO cannot assist individual applicants by reviewing draft proposals or providing advice on how to respond to evaluation criteria. However, the OAO will respond to questions from individual applicants regarding eligibility criteria, administrative issues related to the submission of the proposal, and requests for clarification regarding the announcement.
- The OAO will post questions and answers (Q&A's) relating to this funding opportunity during its open period at *www.grants.gov* on the following Web page: *http://www.outreach.usda.gov/grants/.* The OAO will update the Q&A's on a weekly basis and conduct webinars on an as-needed basis. Questions should be submitted to: *OASDVFR2015@osec.usda.gov.*

V. Competitive Review and Evaluation Criteria

A. Competitive Review

Only eligible entities whose proposals meet the threshold criteria in Section III of this announcement will be reviewed according to the evaluation criteria set forth below. Applicants should explicitly and fully address these criteria as part of their proposal package. Each proposal will be reviewed under the regulations established under 7 CFR part 2500 Subpart C.

Applications for the Center that meet the initial screening requirements will be evaluated and rated by an independent technical review panel. The panel will use the evaluation criteria listed below to score each application. The evaluation criteria are designed to assess the quality of the proposed program and to determine the probability of its success. The evaluation criteria are closely related and are considered as a whole in judging the overall quality of an application. Points are awarded only to applications that are responsive to the evaluation criteria within the context of this program announcement. These review results will be the primary element used by the OAO in making funding decisions. Reviewers will determine the strengths and weaknesses of each application in terms of the evaluation criteria listed below and assign numerical scores out of a possible 100 points. A summary of all applicant scores and strengths/weaknesses and recommendations will be prepared. A preliminary funding recommendation will be provided to the designated approving official who will make the final funding decision.

B. Evaluation Criteria

The point value following each criterion heading indicates the maximum numerical relative weight that each section will be given in the review process. Applicants should take care to ensure that all criteria are fully addressed in the applications.

Criteria	Points
(1) Active Research	50
The applicant demonstrates a proven record of research, outreach, and community involvement within socially disadvantaged communities. The applicant will discuss the activities proposed to address important issues in the development of agricultural policy impacting socially disadvantaged farmers and ranchers. The applicant demonstrates knowledge of policy issues and past research projects on socially disadvantaged farmers and ranchers. The applicant describes in detail how the Center will implement its statement of work to develop capacity to conduct research and provide recommendations on agricultural policy relevant to socially disadvantaged farmers and ranchers. The applicant outlines a strategy for collaborating with OAO and USDA program agencies on agricultural policy relating to socially disadvantaged farmers and ranchers.	
(2) Staffing and Organizational Arrangements	25
The applicant's proposed Center Director and staff demonstrate appropriate levels of experience, administrative skills, public administration experience, and relevant technical expertise. The applicant demonstrates an adequate level of Center Director and staff time commitments to the Center. The applicant demonstrates an ability to work in collaboration with other practitioners as well as existing or planned relationships with researchers at other institutions. The applicant demonstrates the nature and extent of the organization's support for research. The applicant demonstrates the commitment of the university (and proposed institutional unit that will contain the Center) to support the Center's major activities.	
(3) Budget and Resource Allocation	25
The applicant provides a budget that yields an efficient and effective allocation of funds to achieve the objectives of this announcement, as well as core administrative functions necessary to carry out the Center's mission. The application includes a narrative description and justification for proposed budget line items and demonstrates that the project's costs are adequate, reasonable, and necessary for the activities or personnel to be supported. The budget and narrative demonstrate a clear relationship to the approach. The applicant demonstrates the manner in which funds will be allocated to best serve the Center's goals, including but not limited to, the level of indirect costs: (1) Charged by the Center and (2) allowed to the institutions of researchers receiving sub-awards.	

C. Selection of Reviewers

Reviewers will be selected based upon training and experience in relevant fields including, outreach, technical assistance, cooperative extension services, education, statistical, and ethnographic data collection and analysis, and agricultural programs. Reviewers will be drawn from a diverse group of experts to create balanced review panels. More information on the selection of reviewers can be found in 7 CFR 2500.023.

VI. Award Administration Information

A. Award Notices

Proposal Notifications and Feedback

1. The successful applicant will be notified by the OAO via telephone, email, or postal mail. The notification will advise the applicant that its proposed project has been evaluated and recommended for award. The notification will be sent to the original signer of the SF–424, Application for Federal Assistance. The award notice will be forwarded to the grantee for execution and returned to the OAO grants officer, who is the authorizing official. Once grant documents are executed by all parties, authorization to begin work will be given.

2. The OAO will send notification to unsuccessful applicants via email or postal mail. The notification will be sent to the original signer of the SF–424, Application for Federal Assistance.

3. Applicant feedback will be provided using the procedures established by 7 CFR 2500.026.

B. Administrative and National Policy Requirements

All awards resulting from this FOA will be administered in accordance with the OAO assistance regulations codified at 7 CFR part 2500. A listing and description of general federal regulations and cost principles applicable to the award of assistance agreements under this FOA can be found in 7 CFR 2500.003.

Applicable Federal statutes, regulations, and guidelines include the following: (a) OAO Federal Financial Assistance Programs—General Award Administrative Procedures, guidelines to be followed when submitting grant proposals and cooperative agreements and rules governing the evaluation of proposals, 7 CFR part 2500; (b) the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR part 200, as adopted and supplemented by 2 CFR part 400; and (c) the USDA General Program Administrative Regulations, 2 CFR part 415.

C. Data Universal Numbering System, System for Award Management, and Central Contractor Registry Registration

In accordance with the Federal Funding Accountability and Transparency Act (FFATA) and the USDA implementation, all applicants must obtain and provide an identifying number from Dun and Bradstreet's (D&B) Data Universal Numbering System (DUNS). Applicants can receive a DUNS number, at no cost, by calling the toll-free DUNS Number request line at 1–866–705–5711, or visiting the D&B Web site at *www.dnb.com.*

In addition, FFATA requires applicants to register with the Central Contractor Registry (CCR) and the System for Award Management (SAM). This registration must be maintained and updated annually. Applicants can register or update their profile, at no cost, by visiting the SAM Web site at *www.sam.gov* which will satisfy both the CCR and SAM registration requirements.

D. Reporting Requirement

In accordance with 7 CFR 2500.045 and 2500.046, the following reporting requirements will apply to awards provided under this FOA. The OAO reserves the right to revise the schedule and format of reporting requirements as necessary in the award agreement.

1. Quarterly progress reports and financial reports will be required.

- *Quarterly Progress Reports.* The awardee must submit the OMB-approved Performance Progress Report form (SF–PPR, Approval Number: 0970–0334). For each report, the awardee must complete fields 1 through 12 of the SF–PPR. To complete field 10, the awardee is required to provide a detailed narrative of project performance and activities as an attachment, as described in the award agreement. Quarterly progress reports must be submitted to the designated OAO official within 30 calendar days after the end of each calendar quarter.
- *Quarterly Financial Reports.* The awardee must submit the Standard Form 425, Federal Financial Report. For each report, the awardee must complete both the Federal Cash Transaction

Report and the Financial Status Report sections of the SF–425. Quarterly financial reports must be submitted to the designated OAO official within 30 calendar days after the end of each calendar quarter.

2. Final progress and financial reports will be required upon project completion. The final progress report should include a summary of the project or activity throughout the funding period, achievements of the project or activity, and a discussion of problems experienced in conducting the project or activity. The final financial report should consist of a complete SF–425 indicating the total costs of the project. Final progress and financial reports must be submitted to the designated OAO official within 90 calendar days after the completion of the award period.

Signed this 5th day of February, 2015.

Carolyn C. Parker,

Director, Office of Advocacy and Outreach.

[FR Doc. 2015–02833 Filed 2–10–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Office of Advocacy and Outreach

[FOA No.: OAO–00008]

Catalog of Federal Domestic Assistance (CFDA) No.: 10.443—Outreach and Assistance for Socially Disadvantaged Farmers and Ranchers and Veteran Farmers and Ranchers Program

AGENCY: Office of Advocacy and Outreach, USDA.

ACTION: Funding opportunity announcement (FOA).

SUMMARY: This notice announces the availability of funds and solicits applications from eligible entities to compete for financial assistance through the Outreach and Assistance for Socially Disadvantaged Farmers and Ranchers and Veteran Farmers and Ranchers Program (hereinafter the ''2501 Program'').

The overall goal of the 2501 Program is to assist socially disadvantaged and veteran farmers and ranchers in owning and operating farms and ranches while increasing their participation in agricultural programs and services provided by the U.S. Department of Agriculture (USDA). This program will assist eligible community-based and non-profit organizations, higher education institutions, and tribal entities in providing outreach and technical assistance to socially disadvantaged and veteran farmers and ranchers.

DATES: Proposals must be received by April 13, 2015, at 5:00 p.m. EST, at *www.grants.gov.* Proposals received after this deadline will not be considered for funding.

ADDRESSES: *How to File a Complaint of Discrimination:* To file a complaint of discrimination, complete the USDA Program Discrimination Complaint Form, which may be accessed online at: *http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain_combined_6_8_12.pdf,* or write a letter signed by you or your authorized representative.

Send your completed complaint form or letter to USDA by mail, fax, or email:

Mail: U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW., Washington, DC 20250–9410.

Fax: (202) 690–7442.

Email: program.intake@usda.gov.

FOR FURTHER INFORMATION CONTACT: Agency Contact: U.S. Department of Agriculture, DM—Office of Advocacy and Outreach, Attn: Kenya Nicholas, Program Director, Whitten Building Room 520–A, 1400 Independence Avenue SW., Washington, DC 20250, Phone: 202–720–6350, Fax: 202–720–7136, Email: *OASDVFR2015@osec.usda.gov.*

Persons with Disabilities: Persons who require alternative means for communication (Braille, large print, audiotape, etc.), should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

SUPPLEMENTARY INFORMATION: *Funding/Awards:* The total funding potentially available for this competitive opportunity is $9.1 million. The Office of Advocacy and Outreach (OAO) will award new grants from this announcement, subject to availability of funds and the quality of applications received. All applications will be considered new projects and will compete based on the applicant's entity type (*i.e.,* community-based organization, higher education institution, etc.), as described below. The maximum amount of requested federal funding for projects shall not exceed $400,000. The maximum project period is one (1) year.

Funding will be awarded based on peer competition within the three (3) categories listed below. The amount of funding that OAO anticipates awarding within each category is identified below; however, OAO reserves the discretion to make available more or less than those anticipated amounts depending on the number and quality of applications received. There is no commitment by OAO to fund any particular application or to make a specific number of awards within each category.

1. Category #1: Eligible entities described in Sections III.A.2, III.A.3, and III.A.4 (1890, 1994, and Hispanic-Serving Institutions of higher education, American Indian tribal community colleges, and Alaska Native cooperative colleges).

Anticipated amount of total funding: $4,000,000.

2. Category #2: Eligible entities described in Sections III.A.1 and III.A.6 (*i.e.,* community-based organizations, including a network or a coalition of community-based organizations, Indian tribes (as defined in 25 U.S.C. 450b), and national tribal organizations).

Anticipated amount of total funding: $4,000,000.

3. Category #3: Eligible entities described in Sections III.A.5 and III.A.7 (*i.e.,* all other institutions of higher education and other organizations or institutions, including those that received funding under this program before January 1, 1996).

Anticipated amount of total funding: $1,100,000.

Contents of This Announcement

I. Funding Opportunity Description
II. Award Information
III. Eligibility Information
IV. Proposal and Submission Information
V. Application Review Information
VI. Award Administration Information

I. Funding Opportunity Description

A. Background

The 2501 Program, administered by the OAO, is committed to ensuring equitable participation in USDA programs. Community-based and non-profit organizations, higher education institutions, and eligible tribal entities can play a critical role in addressing the unique difficulties socially disadvantaged and veteran farmers and ranchers face. Differences in demographics, culture, economics, and other factors preclude a single approach to identifying solutions that can benefit farmers and ranchers by connecting them with resources available from USDA.

1. The 2501 Program was authorized by the Food, Agriculture, Conservation, and Trade Act of 1990. The Food, Conservation and Energy Act of 2008 expanded the authority of the Secretary of Agriculture (the Secretary) to provide awards under the program and transferred the administrative authority to OAO. The 2014 Farm Bill further expanded the program to include outreach and assistance to veterans. The

2501 Program extends USDA's capacity to work with members of farming and ranching communities by funding projects that enhance the equitable participation of socially disadvantaged and veteran farmers and ranchers in USDA programs. Projects are intended to build lasting relationships between USDA and socially disadvantaged and veteran farmers and ranchers to improve their ability to start and maintain successful agricultural businesses.

2. Form of Submission

Organizations may only submit one proposal for funding.

B. Scope of Work

The 2501 Program provides funding for outreach and technical assistance projects designed to assist socially disadvantaged and veteran farmers and ranchers in owning and operating viable agricultural enterprises. The OAO requests applications from eligible entities, which will provide outreach and technical assistance to socially disadvantaged and veteran farmers and ranchers.

Proposed activities must address two or more of the following priority areas:

1. Assist socially disadvantaged or veteran farmers and ranchers in owning and operating successful farms and ranches;

2. Improve participation among socially disadvantaged or veteran farmers and ranchers in USDA programs;

3. Build relationships between current and prospective socially disadvantaged or veteran farmers and ranchers and USDA's local, state, regional and National offices;

4. Introduce agriculture-related information to socially disadvantaged or veteran farmers and ranchers through innovative outreach and technical assistance techniques.

To encourage information sharing and to build capacity among awardees, the OAO may require Project Directors to attend an annual training conference that can be expensed with awarded grant funds not to exceed $1,000 for up to two authorized grantee personnel. The conference will allow awardees to share ideas and lessons learned, provide training on performance and financial reporting requirements, and provide information on USDA programs and services. In addition, Project Directors will have an opportunity to make contacts and gather information on best practices.

C. Anticipated Outputs/Outcomes

1. Outputs. The term ''output'' means an outreach or assistance activity, effort, and associated work product related to improving the ability of socially disadvantaged and veteran farmers and ranchers to own and operate farms and ranches and to participate equitably in USDA programs and related activities. Outputs may be quantitative or qualitative but must be measurable during an assistance agreement funding period.

Examples of outputs from the projects to be funded under this announcement may include, but are not limited to, the following:

a. Number of socially disadvantaged and veteran farmers or ranchers served;

b. number of completed applications submitted for consideration for USDA programs;

c. number of socially disadvantaged and veteran farmers and ranchers who attended conferences or trainings;

d. number of conferences or training sessions held;

e. type and topic of educational materials distributed at outreach events;

f. creation of a program to enhance the viability of socially disadvantaged and veteran farmers and ranchers; or

g. activity that supports increased participation of socially disadvantaged farmers and ranchers and veteran farmers and ranchers in USDA programs.

Creation of progress and final reports will be required, as specified in Section VI, Subsection D, ''Reporting Requirement.''

2. Outcomes. The term ''outcome'' means the result, effect, or consequence that will occur from carrying out an outreach or assistance program or activity that is related to a programmatic goal or objective. Outcomes may be agricultural, behavioral, social, economic, or programmatic in nature.

Project Directors will be required to document anticipated outcomes that are funded under this announcement which should include but are not limited to:

a. Increase in participation in USDA programs among socially disadvantaged and veteran farmers and ranchers;

b. increase in receptiveness of socially disadvantaged and veteran farmers and ranchers to outreach efforts through effective communication;

c. increase in economic stability of socially disadvantaged and veteran farmers and ranchers within a defined geographic area;

d. increase in community marketing and sales opportunities for the products of socially disadvantaged and veteran farmers and ranchers; or

e. increased use of resource conservation and sustainability practices among socially disadvantaged and veteran farmers and ranchers.

3. Performance Measures. To be eligible for consideration for funding, the applicant must develop performance measures expected to be achieved through proposed activities. These performance measures will provide insight and will be the mechanism to track progress. It is expected that the description of performance measures will include an estimate of the number of socially disadvantaged and veteran farmers and ranchers served by the outreach and assistance activities of the project, including the assumptions used to make those estimates.

The following are questions to consider when developing output and outcome measures of quantitative and qualitative results:

- What are the measurable short term and longer term results the project will achieve?
- How does the plan measure progress in achieving the expected results (including outputs and outcomes) and how will the approach use resources effectively and efficiently?

II. Award Information

A. Statutory Authority

The statutory authority for this action is 7 U.S.C. 2279, as amended, which authorizes award funding for projects designed to provide outreach and assistance to socially disadvantaged and veteran farmers and ranchers.

B. Expected Amount of Funding

The total estimated funding expected to be available for awards under this competitive opportunity is $9.1 million. Funding will be awarded based on peer competition within the three (3) categories listed below. The amount of funding that OAO anticipates awarding within each category is identified below; however, OAO reserves the discretion to make available more or less than those anticipated amounts depending on the number and quality of applications received. There is no commitment by OAO to fund any particular application or to make a specific number of awards within each category.

1. Category #1: Eligible entities described in Sections III.A.2, III.A.3, and III.A.4 (1890, 1994, and Hispanic-serving institutions of higher education, American Indian tribal community colleges, and Alaska Native cooperative colleges).

Anticipated amount of total funding: $4,000,000.

2. Category #2: Eligible entities described in Sections III.A.1 and III.A.6 (*i.e.,* community-based organizations, including a network or a coalition of

community-based organizations, Indian tribes (as defined in 25 U.S.C. 450b), and national tribal organizations).

Anticipated amount of total funding: $4,000,000.

3. Category #3: Eligible entities described in Sections III.A.5 and III.A.7 (*i.e.,* all other institutions of higher education and other organizations or institutions that received funding under this program before January 1, 1996).

Anticipated amount of total funding: $1,100,000.

C. Project Period

The project period for awards resulting from this solicitation will not begin prior to the effective award date and may not exceed one year.

D. Award Type

Funding for selected projects will be in the form of a grant which must be fully executed no later than September 30, 2015. The anticipated Federal involvement will be limited to the following activities:

1. Approval of awardees' final budget and statement of work accompanying the grant agreement.

2. Monitoring of awardees' performance through quarterly and final financial and performance reports; and

3. Evaluation of awardees' use of federal funds through desk audits and on-site visits.

III. Eligibility Information

A. Eligible Entities

1. Any community-based organization, network, or coalition of community-based organizations that:

- Demonstrates experience in providing agricultural education or other agricultural-related services to socially disadvantaged and veteran farmers and ranchers;
- provides documentary evidence of work with, and on behalf of socially disadvantaged and veteran farmers and ranchers during the 3-year period preceding the submission of a proposal for assistance under this program; and
- does not or has not engaged in activities prohibited under Section 501(c) (3) of the Internal Revenue Code of 1986.

2. An 1890 or 1994 institution of higher education (as defined in 7 U.S.C. 7601).

3. An American Indian tribal community college or an Alaska Native cooperative college.

4. A Hispanic-Serving Institution of higher education (as defined in 7 U.S.C. 3103).

5. Any other institution of higher education (as defined in 20 U.S.C. 1001) that has demonstrated experience in providing agricultural education or other agricultural-related services to socially disadvantaged farmers and ranchers.

6. An Indian tribe (as defined in 25 U.S.C. 450b) or a National tribal organization that has demonstrated experience in providing agricultural education or other agriculturally-related services to socially disadvantaged farmers and ranchers.

7. All other organizations or institutions that received funding under this program before January 1, 1996 but only with respect to projects that the Secretary considers are similar to projects previously carried out by the entity under this program.

B. Cost-Sharing or Matching

Matching is not required for this program.

C. Threshold Eligibility Criteria

Applications from eligible entities that meet all criteria will be evaluated as follows:

1. Proposals must comply with the submission instructions and requirements set forth in Section IV of this announcement. Pages in excess of the page limitation will not be considered.

2. Proposals must be received through *www.grants.gov* as specified in Section IV of this announcement on or before the proposal submission deadline. Applicants will receive an electronic confirmation receipt of their proposal from *www.grants.gov.*

3. Proposals received after the submission deadline will be considered late and will not be considered.

4. Proposals must address two or more of the priority areas that provide outreach and assistance to socially disadvantaged or veteran farmers and ranchers as stated in Section I, Subsection B, Scope of Work.

IV. Proposal and Submission Information

A. Obtain Proposal Package

Applicants may download individual grant proposal forms from *www.grants.gov.* For assistance with *www.grants.gov,* please consult the Applicant User Guide at (*http://grants.gov/assets/ApplicantUserGuide.pdf*).

B. Form of Proposal Submission

Applicants are required to submit proposals through *www.grants.gov.* Applicants will be required to register through *www.grants.gov* in order to begin the proposal submission process. We strongly suggest you initiate this process immediately to avoid processing delays due to registration requirements.

Proposals must be submitted by April 13, 2015, via *www.grants.gov* at 5:00 p.m. EST. Proposals received after this deadline will not be considered.

C. Content of Proposal Package Submission

All submissions must contain completed and electronically signed original application forms, as well as a Narrative Proposal, as described below:

1. Forms. The forms listed below can be found in the proposal package at *www.grants.gov.*

- Standard Form 424, Application for Federal Assistance;
- Standard Form 424A, Budget Information—Non-Construction Programs; and
- Standard Form 424B, Non-Construction Programs.

2. Attachments. The elements listed below are required for all grant proposals and are included in the proposal package at *www.grants.gov* as fillable PDF templates. Applicants must download and complete these attachments and save the completed PDF files to the application submission portal at *www.grants.gov.* **Note:** Please number each page of each attachment and indicate the total number of pages per attachment (*i.e.,* 1 of 10, 2 of 10, etc.).

- *Attachment 1: Project Summary Page.* The proposal must contain a Program Summary Page, which must follow immediately after the budget form, and should not be numbered. The program summary is limited to 250 words. The program summary should be a self-contained, specific description of the activities to be undertaken. The summary should focus on the overall program goals and supporting objectives and plans to accomplish the goals. The importance of a concise, informative program summary cannot be overemphasized. Please do not reiterate the objectives of this program, the summary should reflect the goals of your specific proposal.
- *Attachment 2: Project Narrative.* In 15 double-spaced pages or less (one-inch margins, 12-point font), indicate the organization that will conduct the project, the geographical area served by the project, and the priority areas that will be addressed by the project. Please be concise.

○ Discuss the merits of your proposed project. Specifically, it is critical that the proposal: (1) Define and establish the existence of the needs of socially disadvantaged farmers and ranchers in the defined geographic area; (2) define and establish the existence of the needs

of veteran farmers and ranchers in the defined geographic area; (3) identify the experience of the organization(s) taking part in the project; (4) identify the geographic area of service; and (5) discuss the potential impact of the project.

○ Identify the qualifications, relevant experience, education, and publications of each Project Director or collaborator. Also, specifically discuss the roles and responsibilities of key personnel within the scope of work to be completed by the proposed project. This includes past completed projects and financial management experiences.

• In an organized format, map out the timeline for each task to be accomplished during the proposed award period. Identify the relationship of each task to a priority area identified as one of the four priority areas in Section I, Subsection B.

• *Attachment 3: Budget Narrative.* The budget narrative should identify and describe the costs associated with the proposed project, including sub-awards or contracts and indirect costs. An eligible entity that has never received a negotiated indirect cost rate may elect to charge a de minimis rate of 10% of modified total direct costs in accordance with 2 CFR 200.414. Other funding sources may also be identified in this attachment. Each cost indicated must be allocable and fully allowable under the Federal Cost Principles in order to be funded. The budget narrative should not exceed 2 pages.

• *Attachment 4: Appendices.* For example, any Letters of Commitment, Letters of Support and approvals or other actions by Tribal Governments are encouraged but not required documentation for this funding opportunity. However, applicants can consolidate all supplemental materials into one additional attachment. Do not include sections from other attachments as an Appendix.

D. Sub-Awards and Partnerships

Funding may be used to provide sub-awards, which includes using sub-awards to fund partnerships; however, the awardee must utilize at least 50 percent of the total funds awarded, and no more than three subcontracts will be permitted. All sub-awardees must comply with applicable requirements for sub-awards. Applicants must provide documentation of a competitive bidding process for services, contracts and products, including consultant contracts, and conduct cost and price analyses to the extent required by applicable procurement regulations.

The OAO awards funds to one eligible applicant as the awardee. Please indicate a lead applicant as the responsible party if other organizations are named as partners or co-applicants or members of a coalition or consortium. The awardee is accountable to the OAO for the proper expenditure of all funds.

E. Submission Dates and Times

The closing date and time for receipt of proposal submissions is April 13, 2015, at 5:00 p.m., EST via *www.grants.gov.* Proposals received after the submission deadline will be considered late without further consideration.

F. Confidential Information

In accordance with 7 CFR 2500.017, the names of entities submitting proposals, as well as proposal contents and evaluations, will be kept confidential to the extent permissible by law. If an applicant chooses to include confidential or proprietary information in the proposal, it will be treated in accordance with Exemption 4 of the Freedom of Information Act (FOIA). Exemption 4 of the FOIA protects trade secrets, and commercial and financial information obtained from a person that is privileged or confidential.

G. Pre-Submission Proposal Assistance

1. The OAO may not assist individual applicants by reviewing draft proposals or providing advice on how to respond to evaluation criteria. However, the OAO will respond to questions from individual applicants regarding eligibility criteria, administrative issues related to the submission of the proposal, and requests for clarification regarding the announcement. Any questions should be submitted to *OASDVFR2015@osec.usda.gov.*

2. The OAO will post questions and answers (Q&A's) relating to this funding opportunity during its open period at *www.grants.gov* on the following Web page: *http://www.outreach.usda.gov/grants/.* The OAO will update the Q&A's on a weekly basis and conduct webinars on an as-needed basis.

V. Application Review Information

A. Evaluation Criteria

Only eligible entities whose proposals meet the threshold criteria in Section III of this announcement will be reviewed according to the evaluation criteria set forth below. Applicants should explicitly and fully address these criteria as part of their proposal package. Each proposal will be reviewed under the regulations established under 7 CFR Chapter XXV Part 2500 Subpart C.

The OAO will use a point system to rate each proposal, awarding a maximum of 100 points (95 points, plus an additional 5 discretionary points for programmatic priorities). Each proposal will be given a numerical score by an independent review panel, and will be rank-ordered accordingly. Preliminary funding recommendations will be provided to the designated approving official based on this ranking. Final funding decisions will be made by the designated approving official.

B. Evaluation Criteria for New Grants Proposals

Criteria	Points
1. *Project Narrative:* Under this criterion, the OAO will evaluate the extent to which the narrative includes a well-conceived strategy for addressing the requirements and objectives stated in: (i) Section I, Part B, Scope of Work (15 points), identifying two or more of the priority areas; (ii) Section I, Part C(1) Anticipated Outputs (15 points), documenting the extent to which the proposal seeks to connect socially disadvantaged and veteran farmers and ranchers with USDA agricultural programs; (iii) Section I, Part C(2), Anticipated Outcomes (10 points), indicating the final result or effect of your proposed project as it relates to the overall goals and objectives of the program; and (iv) Section I, Part C(3) Performance Measures (5 points), documenting the extent to which the applicant clearly demonstrates how they will ensure timely and successful completion of the project and whether the proposal sets forth a reasonable time schedule for execution of the tasks associated with the projects. In addition, the OAO may award up to 5 discretionary points for the following Secretary priorities and initiatives:	45
• Projects assisting beginning farmers and ranchers (as defined in 7 U.S.C. 3319f);	
• Projects to assist StrikeForce states/communities as identified through the StrikeForce Initiative);	
• Projects that propose to assist with USDA's commitment to Tribal organizations with successful demonstration on implementation methods encompassing Tribal participation and buy-in;	
• Projects located in rural Promise Zones;	

Criteria	Points
• Projects with an emphasis on partnering with other USDA government agencies to leverage resources and to promote other USDA programs and initiatives (research, small and beginning farmers, and feeding programs, etc.); and • Projects that maximize areas of coverage for outreach by leveraging and partnering/collaborating with other Federal, state, local resources, etc	5
2. *Tracking and Measuring:* Under this criterion, the OAO will evaluate the effectiveness of the applicant's detailed plan for tracking and measuring its progress toward achieving the expected project outputs and outcomes	20
3. *Programmatic Capability:* Under this criterion, applicants will be evaluated based on their ability to successfully complete and manage the proposed project taking into account the applicant's: (i) (5 points) organizational experience and plan for timely and successfully achieving the objectives of the proposed project; and (ii) (5 points) staff expertise/qualifications, staff knowledge, and resources or the ability to obtain them, to successfully achieve the goals of the proposed project	10
4. *Past Funding Performance:* Under this criterion, applicants will be evaluated based on their demonstrated ability to successfully complete and manage the proposed project taking into account the applicants' past performance in successfully completing and managing prior funding agreements identified in Attachment 2 of the proposal as described in Section IV.C of the announcement;	5
5. *Budget:* Under this criterion, the OAO will evaluate the proposed project budget to determine whether, (i) (10 points) costs are reasonable and allowable to accomplish the proposed goals, objectives, and measurable outcomes; and (ii) (5 points) the proposed budget provides a detailed breakdown of the approximate funding used for each major activity. For a list of unallowable costs, please see 2 CFR Part 200	15

C. Selection of Reviewers

Reviewers will be selected based upon training and experience in relevant fields including, outreach, technical assistance, cooperative extension services, civil rights, education, statistical and ethnographic data collection and analysis, and agricultural programs. Reviewers will be drawn from a diverse group of experts to create balanced review panels. More information on the selection of reviewers can be found in 7 CFR 2500.023.

VI. Award Administration Information

A. Award Notices

Proposal Notifications and Feedback

1. The successful applicant will be notified by the OAO via telephone, email, or postal mail. The notification will advise the applicant that its proposed project has been evaluated and recommended for award. The notification will be sent to the original signer of the SF–424, Application for Federal Assistance. The award notice will be forwarded to the grantee for execution and returned to the OAO grants officer, who is the authorizing official. Once grant documents are executed by all parties, authorization to begin work will be given. At a minimum, this process can take up to 30 days from the date of recommendation.

2. The OAO will send notification to unsuccessful applicants via email or postal mail. The notification will be sent to the original signer of the SF–424, Application for Federal Assistance.

3. Applicant feedback will be provided using the procedures established by 7 CFR Chapter XXV Part 2500.026.

B. Administrative and National Policy Requirements

All awards resulting from this FOA will be administered in accordance with the OAO assistance regulations codified at 7 CFR part 2500. A listing and description of general federal regulations and cost principles applicable to the award of assistance agreements under this FOA can be found in 7 CFR Chapter XXV Part 2500.003.

Applicable Federal statutes, regulations, and guidelines include the following: (a) OAO Federal Financial Assistance Programs—General Award Administrative Procedures, guidelines to be followed when submitting grant proposals and cooperative agreements and rules governing the evaluation of proposals, 7 CFR part 2500; (b) the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR part 200, as adopted and supplemented by 2 CFR part 400; and (c) the USDA General Program Administrative Regulations, 2 CFR part 415.

C. Data Universal Numbering System, System for Award Management, and Central Contractor Registry Registration

In accordance with the Federal Funding Accountability and Transparency Act (FFATA) and the USDA implementation, all applicants must obtain and provide an identifying number from Dun and Bradstreet's (D&B) Data Universal Numbering System (DUNS). Applicants can receive a DUNS number, at no cost, by calling the toll-free DUNS Number request line at 1–866–705–5711, or visiting the D&B Web site at *www.dnb.com.*

In addition, FFATA requires applicants to register with the Central Contractor Registry (CCR) and the System for Award Management (SAM). This registration must be maintained and updated annually. Applicants can register or update their profile, at no cost, by visiting the SAM Web site at *www.sam.gov* which will satisfy both the CCR and SAM registration requirements. This is a requirement to register for *www.grants.gov.*

D. Reporting Requirement

In accordance with 7 CFR Chapter XXV Part 2500.045 and 2500.046, the following reporting requirements will apply to awards provided under this FOA. The OAO reserves the right to revise the schedule and format of reporting requirements as necessary in the award agreement.

1. Quarterly progress reports and financial reports will be required.

• *Quarterly Progress Reports.* The awardee must submit the OMB-approved Performance Progress Report form (SF–PPR, Approval Number: 0970–0334). For each report, the awardee must complete fields 1 through 12 of the SF–PPR. To complete field 10, the awardee is required to provide a detailed narrative of project performance and activities as an attachment, as described in the award agreement. Quarterly progress reports must be submitted to the designated OAO official within 30 days after the end of each calendar quarter.

• *Quarterly Financial Reports.* The awardee must submit the Standard Form 425, Federal Financial Report. For each report, the awardee must complete both the Federal Cash Transaction Report and the Financial Status Report sections of the SF–425. Quarterly financial reports must be submitted to the designated OAO official within 30 days after the end of each calendar quarter.

2. Final progress and financial reports will be required upon project completion. The final progress report should include a summary of the project or activity throughout the funding period, achievements of the project or activity, and a discussion of problems experienced in conducting the project or activity. The final financial report should consist of a complete SF–425 indicating the total costs of the project. Final progress and financial reports must be submitted to the designated OAO official within 90 days after the completion of the award period.

Signed this 5th day of February, 2015.

Carolyn C. Parker,

Director, Office of Advocacy and Outreach.

[FR Doc. 2015–02834 Filed 2–10–15; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the West Virginia Advisory Committee

Date and Time: Friday, February 27, 2015, at 10:00 a.m. [EST].

Place: Via Teleconference. Public Dial-in 1–877–446–3914; Listen Line Code: 3110313#

TDD: Dial Federal Relay Service 1–800–977–8339 give operator the following number: 202–376–7533—or by email at *ero@usccr.gov.*

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a planning meeting of the West Virginia Advisory Committee to the Commission will convene via conference call. The Committee has selected a civil rights project to review the treatment of persons in mental health crises who find themselves in the West Virginia criminal justice system. The purpose of the meeting is to discuss and approve the project proposal that the Committee will submit to the agency for approval and to consider next steps in the planning of this project.

The meeting will be conducted via conference call. Members of the public, including persons with hearing impairments, who wish to listen to the conference call should contact the Eastern Regional Office (ERO), ten days in advance of the scheduled meeting, so that a sufficient number of lines may be reserved. You may contact the Eastern Regional Office by phone at 202–376–7533. Persons with hearing impairments should first call the Eastern Regional Office at the Federal Relay Service number listed above. After contact ERO such persons will be instructed on how to listen to the conference call.

Members of the public who call-in can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number.

Members of the public are entitled to submit written comments. The comments must be received in the regional office by Monday, March 30, 2015. Comments may be mailed to the Eastern Regional Office, U.S. Commission on Civil Rights, 1331 Pennsylvania Avenue, Suite 1150, Washington, DC 20425, faxed to (202) 376–7548, or emailed to Evelyn Bohor at *ero@usccr.gov.* Persons who desire additional information may contact the Eastern Regional Office at 202–376–7533.

Records generated from this meeting may be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's Web site, *www.usccr.gov,* or to contact the Eastern Regional Office at the above phone number, email or street address.

The meetings will be conducted pursuant to the provisions of the rules and regulations of the Commission and FACA.

Dated: February 5, 2015.

David Mussatt,

Chief, Regional Programs Unit.

[FR Doc. 2015–02729 Filed 2–10–15; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: Survey of Housing Starts, Sales, and Completions.

Form Number(s): SOC–QI/SF.1, SOC–QI/MF.1.

OMB Control Number: 0607–0110.

Type of Request: Extension of a currently approved collection.

Burden Hours: 13,187.

Number of Respondents: 20,400.

Average Hours per Response: 5 minutes.

Needs and Uses: The U.S. Census Bureau is requesting an extension of the Survey of Housing Starts, Sales, and Completions, otherwise known as the Survey of Construction (SOC). Government agencies and private companies use statistics from SOC to monitor and evaluate the large and dynamic housing construction industry. Data for two principal economic indicators are produced from the SOC: New Residential Construction (housing starts and housing completions) and New Residential Sales. In addition, a number of other statistical series are produced, including extensive information on the physical characteristics of new residential buildings, and indexes measuring rates of inflation in the price of new buildings. These statistics are based on a sample of residential buildings in permit-issuing places and a road canvass in a sample of land areas not covered by building permit systems.

The field representatives (FRs) mail forms SOC–QI/SF.1 and SOC–QI/MF.1 to new respondents to complete. A few days later, the FRs either call or visit the respondents to enter their survey responses into a laptop computer using the Computer Assisted Personal Interviewing (CAPI) software formatted for the SOC–QI/SF.1 and SOC–QI/MF.1 forms. The respondents are home builders, real estate agents, rental agents, or new homeowners of sampled residential buildings. FRs contact respondents multiple times based on the number of projects in the sample and the number of months required to complete the project.

The Census Bureau uses the information collected in the SOC to publish estimates of the number of new residential housing units started, under construction, completed, and the number of new houses sold and for sale. The Census Bureau also publishes many financial and physical characteristics of new housing units. Government agencies use these statistics to evaluate economic policy, measure progress towards the national housing goal, make policy decisions, and formulate legislation. For example, the Board of Governors of the Federal Reserve System uses data from this survey to evaluate the effect of interest rates in this interest-rate sensitive area of the economy. The Bureau of Economic Analysis (BEA) uses the data in developing the Gross Domestic Product (GDP). The private sector uses the information for estimating the demand for building materials and the many products used in new housing and to

schedule production, distribution, and sales efforts. The financial community uses the data to estimate the demand for short-term (construction loans) and long-term (mortgages) borrowing.

Affected Public: Individuals or households; business or other for-profit.

Frequency: Monthly.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 U.S.C., Sections 131 and 182.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: February 5, 2015.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2015–02730 Filed 2–10–15; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–890]

Wooden Bedroom Furniture From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and New Shipper Reviews; 2013

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (''the Department'') is conducting the ninth administrative review (''AR'') and a new shipper review (''NSR'') of the antidumping duty order on wooden bedroom furniture (''WBF'') from the People's Republic of China (''PRC''). The AR covers 28 exporters of subject merchandise, of which the Department selected one company for individual examination. The NSR covers one exporter and producer of subject merchandise. The period of review (''POR'') for the AR and NSR is January 1, 2013, through December 31, 2013. The Department preliminarily determines that the mandatory respondent in the NSR has not made sales of subject merchandise at less than normal value. Additionally, the Department preliminarily determines that it will treat the mandatory respondent in the AR as part of the PRC-wide entity. Interested parties are invited to comment on these preliminary results.

DATES: *Effective Date:* February 11, 2015.

FOR FURTHER INFORMATION CONTACT: Patrick O'Connor or Jeffrey Pedersen, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0989, and (202) 482–2769, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The product covered by the order is wooden bedroom furniture, subject to certain exceptions.[1] Imports of subject merchandise are classified under the Harmonized Tariff Schedule of the United States (''HTSUS'') subheadings: 9403.50.9042, 9403.50.9045, 9403.50.9080, 9403.50.9042, 9403.50.9045, 9403.60.8081, 7009.92.1000 or 7009.92.5000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written product description in the *Order* remains dispositive.[2]

Methodology

The Department is conducting these reviews in accordance with sections 751(a)(1)(B) and 751(a)(2)(B) of the Tariff Act of 1930, as amended (''the Act'') and 19 CFR 351.213 and 19 CFR 351.214. The Department calculated export prices in accordance with section 772 of the Act. Because the PRC is a nonmarket economy (''NME'') within the meaning of section 771(18) of the Act, the Department calculated normal value in accordance with section 773(c) of the Act. For a full description of the methodology underlying our conclusions, see the Preliminary Decision Memorandum, which is hereby adopted with this notice. A list of topics discussed in the Preliminary Decision Memorandum is provided as Appendix I to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''ACCESS'').[3] ACCESS is available to registered users at *http://access.trade.gov* and in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Notice of Intent To Rescind AR, in Part

In the *Initiation Notice* for the AR, we stated that ''for exporters and producers who submit a separate rate application or separate rate certification and subsequently are selected as mandatory respondents, these exporters and producers will no longer be eligible for separate-rate status unless they respond to all parts of the questionnaire as mandatory respondents.''[4] The Department selected Jiedong Lehouse Furniture Co., Ltd. (''Jiedong Lehouse'') as a mandatory respondent.[5] The Department preliminarily determines that Jiedong Lehouse did not establish its eligibility for a separate rate for the reasons explained in the Preliminary Decision Memorandum. Accordingly, we are preliminarily treating Jiedong Lehouse as part of the PRC-wide entity.

In addition, 15 other companies for which a review was requested failed to provide separate rate applications or certifications necessary to establish their eligibility for a separate rate. The Department preliminarily determines to treat these 15 companies as part of the PRC-wide entity.[6] For additional

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[1] *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Wooden Bedroom Furniture From the People's Republic of China,* 70 FR 329 (January 4, 2005) (''*Order*'').

[2] For a complete description of the Scope of the Order, please see ''*Decision Memorandum for Preliminary Results of Antidumping Duty Administrative and New Shipper Review: Wooden Bedroom Furniture from the People's Republic of China,*'' from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance (''Preliminary Decision Memorandum''), dated concurrently with this notice.

[3] On November 24, 2014, Enforcement and Compliance changed the name of Enforcement and Compliance's AD and CVD Centralized Electronic Service System (''IA ACCESS'') to AD and CVD Centralized Electronic Service System (''ACCESS''). The Web site location was changed from *http://iaaccess.trade.gov* to *http://access.trade.gov.* The Final Rule changing the references to the Regulations can be found at 79 FR 69046 (November 20, 2014).

[4] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* at 79 FR 11401, 11402.

[5] *See* Preliminary Decision Memorandum.

[6] Those 15 companies not establishing their eligibility for a separate rate are: (1) Art Heritage International, Ltd., Super Art Furniture Co., Ltd., Artwork Metal & Plastic Co., Ltd., Jibson Industries Ltd., Always Loyal International; (2) Cheng Meng Furniture (Pte) Ltd., Cheng Meng Decoration & Furniture (Suzhou) Co., Ltd.; (3) Coe., Ltd.; (4) Dalian Huafeng Furniture Co., Ltd.; (5) Dalian Huafeng Furniture Group Co., Ltd.; (6) Dongguan Hung Sheng Artware Products Co., Ltd., Coronal Enterprise Co., Ltd.; (7) Dongguan Yujia Furniture Co., Ltd./Dongguan Yujia Furniture Co., Ltd.; (8)

information regarding this determination, *see* the Preliminary Decision Memorandum. Because no request for review was made of the PRC-wide entity, we intend to rescind the review with respect to 16 companies (which includes Jiedong Lehouse and the other 15 other companies which did not demonstrate their eligibility for separate rate status) as part of the PRC-wide entity, at the final results.[7]

Preliminary Determination of No-Shipments

Based on an analysis of U.S. Customs and Border Protection (''CBP'') information, and comments provided by a number of companies, the Department preliminarily determines that 12 of the companies for which an administrative review was requested and that claimed no shipments during this POR did not have any reviewable transactions during the POR.[8] For additional information regarding this determination, *see* the Preliminary Decision Memorandum.[9] Consistent with an announced refinement to its assessment practice in NME cases, the Department is not rescinding this administrative review, in part, but intends to complete the review with respect to the companies for which it has preliminarily found no shipments and issue appropriate instructions to CBP based on the final results of the review.[10]

Preliminary Results of NSR

Regarding the NSR, we preliminarily determine that the following weighted-average dumping margin exists for the period January 1, 2013 through December 31, 2013:

Exporter	Producer	Weighted-average dumping margin (percent)
Wuxi Yushea Furniture Co., Ltd	Wuxi Yushea Furniture Co., Ltd	0.00

Disclosure and Public Comment

The Department will disclose calculations performed for these preliminary results to parties within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Interested parties may submit case briefs no later than 30 days after the date of publication of these preliminary results of review.[11] Rebuttals to case briefs may be filed no later than five days after the written comments are filed and all rebuttal comments must be limited to comments raised in the case briefs.[12]

Any interested party may request a hearing within 30 days of publication of this notice.[13] Hearing requests should contain the following information: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230.[14]

The Department will issue the final results of this AR and NSR, which will include the results of its analysis of issues raised in any briefs received, within 120 days of publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuing the final results of these reviews, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by these reviews.[15] The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of these reviews.

For each individually examined respondent in these reviews whose weighted-average dumping margin is above *de minimis* (*i.e.,* 0.5 percent) in the final results of these reviews, the Department will calculate importer-specific assessment rates on the basis of the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value of those sales, in accordance with 19 CFR 351.212(b)(1).[16] Where an importer- (or customer-) specific *ad valorem* rate is greater than *de minimis,* the Department will instruct CBP to collect the appropriate duties at the time of liquidation.[17] Where either a respondent's weighted average dumping margin is zero or *de minimis,* or an importer- (or customer-) specific ad valorem dumping margin is zero or *de minimis,* the Department will instruct CBP to liquidate appropriate entries without regard to antidumping duties.[18] We intend to instruct CBP to liquidate entries of subject merchandise exported by the PRC-wide entity at the PRC-wide rate.

The Department announced a refinement to its assessment practice in NME cases. Pursuant to this refinement in practice, for entries that were not reported in the U.S. sales database

Liang Huang (Jiaxing) Enterprise Co., Ltd.; (9) Marvin Furniture (Shanghai) Co. Ltd.; (10) Prime Best Factory; (11) Prime Best International Co., Ltd.; (12) Prime Wood International Co., Ltd; (13) Sen Yeong International Co., Ltd., Sheh Hau International Trading Ltd.; (14) Strongson Furniture (Shenzhen) Co., Ltd., Strongson Furniture Co., Ltd., Strongson (Hk) Co.; and (15) Zhang Zhou Sanlong Wood Product Co., Ltd.

[7] *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963, 65969–70 (November 4, 2013).

[8] Those 12 companies with no shipments during the POR are: (1) Baigou Crafts Factory Of Fengkai; (2) Clearwise Company Limited; (3) Dongguan Chengcheng Furniture Co., Ltd./Dongguan Chengcheng Furniture Co., Ltd.; (4) Dongguan Singways Furniture Co., Ltd.; (5) Eurosa (Kunshan) Co., Ltd., Eurosa Furniture Co., (Pte) Ltd.; (6) Golden Well International (HK) Ltd./Zhangzhou XYM Furniture Product Co., Ltd.; (7) Hangzhou Cadman Trading Co., Ltd./Haining Changbei Furniture Co., Ltd.; (8) Hualing Furniture (China) Co., Ltd., Tony House Manufacture (China) Co., Ltd., Buysell Investments Ltd., Tony House Industries Co., Ltd.; (9) Rizhao Sanmu Woodworking Co., Ltd.; (10) Shenyang Shining Dongxing Furniture Co., Ltd.; (11) Yeh Brothers World Trade, Inc.; and (12) Zhejiang Tianyi Scientific & Educational Equipment Co., Ltd./ Zhejiang Tianyi Scientific & Educational Equipment Co., Ltd.

[9] *See also* Memorandum from Patrick O'Connor, International Trade Compliance Analyst, Office IV, to Abdelali Elouaradia Director, Office IV, AD/CVD Operations, regarding the ''Antidumping Duty Administrative Review of Wooden Bedroom Furniture from the People's Republic of China: Analysis of No Exports, Sales, or Entries by Certain Companies,'' dated concurrently with this notice.

[10] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694, 65694–95 (October 24, 2011) and the ''Assessment Rates'' section, below.

[11] *See* 19 CFR 351.309(c).

[12] *See* 19 CFR 351.309(d).

[13] *See* 19 CFR 351.310(c).

[14] *See* 19 CFR 351.310(d).

[15] *See* 19 CFR 351.212(b).

[16] In these preliminary results, the Department applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101 (February 14, 2012).

[17] *See* 19 CFR 351.212(b)(1).

[18] *See* 19 CFR 351.212(b)(1).

submitted by companies individually examined during the administrative review, the Department will instruct CBP to liquidate such entries at the PRC-wide rate. Additionally, if the Department determines that an exporter had no shipments of subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.,* at that exporter's rate) will be liquidated at the PRC-wide rate.[19]

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of these reviews for shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by sections 751(a)(2)(C) of the Act: (1) For the companies listed above that have a separate rate, the cash deposit rate will be that rate established in the final results of these reviews (except, if the rate is zero or *de minimis,* then a zero cash deposit will be required); (2) for previously investigated or reviewed PRC and non-PRC exporters listed above that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the rate for the PRC-wide entity, which is 216.01 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that non-PRC exporter.

With respect to Wuxi Yushea, the new shipper respondent, the Department established a combination cash deposit rate for this company, consistent with its practice, as follows: (1) For subject merchandise produced and exported by Wuxi Yushea, the cash deposit rate will be the rate established for Wuxi Yushea in the final results of the NSR; (2) for subject merchandise exported by Wuxi Yushea, but not produced by Wuxi Yushea, the cash deposit rate will be the rate for the PRC-wide entity; and (3) for the subject merchandise produced by Wuxi Yushea, but not exported by Wuxi Yushea, the cash deposit rate will be the rate applicable to the exporter.

[19] For a full discussion of this practice, *see Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011).

These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing these results in accordance with sections 751(a)(1), 751(a)(2)(B), and 777(i)(1) of the Act and 19 CFR 351.213 and 19 CFR 351.214.

Dated: February 2, 2015.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

(1) Summary
(2) Background
(3) Scope of the Order
(4) *Respondent Selection for the AR*
(5) Discussion Of The Methodology
  a. *Preliminary Determination of No Shipments*
  b. *Bona Fides Analysis*
  c. *Duty Absorption*
  d. *NME Country Status*
  e. *Separate Rates*
  f. *Surrogate Country*
  g. *Economic Comparability*
  h. *Significant Producer of Comparable Merchandise*
  i. *Data Availability*
  j. *Date of Sale*
  k. *Fair Value Comparisons*
  l. *Differential Pricing Analysis*
  m. *U.S. Price*
  n. *Normal Value*
  o. *Currency Conversion*
  p.
(6) *Conclusion*

[FR Doc. 2015–02838 Filed 2–10–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

United States Travel and Tourism Advisory Board: Meeting of the United States Travel and Tourism Advisory Board

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of an open meeting.

SUMMARY: The United States Travel and Tourism Advisory Board (Board) will hold the fourth meeting of the current term on Wednesday, February 24, 2015. The Board was re-chartered on August 2013, to advise the Secretary of Commerce on matters relating to the travel and tourism industry.

During this meeting, the Board will present recommendations on infrastructure strategy, cultural and natural heritage, and possibly other topics. Board members will also hear an update on the Presidential Memorandum to develop a national goal to improve the entry process and reduce wait times for international travelers to the United States, and action plans at the 15 largest airports for international arrivals. The Secretary of Commerce will provide an update on the recommendations conveyed at the Board's meeting in November 2014. The agenda may change to accommodate Board business. The final agenda will be posted on the Department of Commerce Web site for the Board at *http://trade.gov/ttab,* at least one week in advance of the meeting.

DATES: Wednesday, February 24, 2015, 10:00 a.m.–12:30 p.m. and open for public comments.

ADDRESSES: U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230. Guests are requested to register one week in advance by sending an email to *OACIE@trade.gov.*

FOR FURTHER INFORMATION CONTACT: Niara Phillips, the United States Travel and Tourism Advisory Board, Room 4043, 1401 Constitution Avenue NW., Washington, DC 20230, telephone: 202–482–4501, email: *niara.phillips@trade.gov.*

SUPPLEMENTARY INFORMATION:

Background: The Board advises the Secretary of Commerce on matters relating to the U.S. travel and tourism industry.

Public Participation: The meeting will be open to the public and will be physically accessible to people with disabilities. All guests are required to register in advance. The meeting room will be provided upon registration. Seating is limited and will be on a first come, first served basis. Requests for sign language interpretation, other auxiliary aids, or pre-registration, should be submitted no later than 5 p.m. EDT on February 16, 2015, to Niara Phillips, the U.S. Travel and Tourism Advisory Board, Room 4043, 1401 Constitution Avenue NW., Washington, DC 20230, telephone 202–482–4501,

OACIE@trade.gov. Last minute requests will be accepted, but may be impossible to fill. There will be 15 minutes of time allotted for oral comments from members of the public attending the meeting. Any member of the public may submit pertinent written comments concerning the Board's affairs at any time before or after the meeting. Comments may be submitted to Niara Phillips at the contact information indicated above. To be considered during the meeting, comments must be received no later than 5:00 p.m. EDT on February 16, 2015, to ensure transmission to the Board prior to the meeting. Comments received after that date will be distributed to the members but may not be considered at the meeting. Copies of Board meeting minutes will be available within 90 days of the meeting.

Dated: February 9, 2015.

Niara Phillips,

Executive Secretary, United States Travel and Tourism Advisory Board.

[FR Doc. 2015–02917 Filed 2–9–15; 4:15 pm]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Inventory of U.S. Marine Protected Areas: Site Characteristics and Human Uses; Correction

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice; correction.

SUMMARY: The Department of Commerce published a document in the **Federal Register** of February 2, 2015, concerning request for comments on a proposed information collection under the Paperwork Reduction Act, OMB Control No. 0648–0449. The document contained incorrect dates.

FOR FURTHER INFORMATION CONTACT: Dr. Charles M. Wahle, Senior Scientist, NOAA's National Marine Protected Areas Center, via email at *charles.wahle@noaa.gov*, or by telephone: (831) 647–6460.

SUPPLEMENTARY INFORMATION:

I. Correction

In the **Federal Register** of February 2, 2015, Vol. 80, No. 21, on page 5515, in the third column, correct the ''Dates'' caption to read: ''**DATES**: Written comments must be submitted on or before April 3, 2015''.

Dated: February 5, 2015.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2015–02741 Filed 2–10–15; 8:45 am]

BILLING CODE 3510–NK–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2015–OS–0014]

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary of Defense, DoD.

ACTION: Notice to alter a System of Records.

SUMMARY: The Office of the Secretary of Defense proposes to alter a system of records, DPR 45 DoD, entitled ''Military OneSource (MOS) Case Management System (CMS)'' in its inventory of record systems subject to the Privacy Act of 1974, as amended.

MOS CMS allows the documentation of an individual's eligibility; identification of the caller's inquiry or issue to provide a warm hand-off, referral and/or requested information; the development towards a final solution and referral information. Records may be used as a management tool for statistical analysis, tracking, reporting, and evaluating program effectiveness, and for conducting research. Information about individuals indicating a threat to self or others will be reported to the appropriate authorities in accordance with DoD regulations and established protocols.

DATES: Comments will be accepted on or before March 13, 2015. This proposed action will be effective the date following the end of the comment period unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

* *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, 2nd Floor, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Cindy Allard, Chief, OSD/JS Privacy Office, Freedom of Information Directorate, Washington Headquarters Service, 1155 Defense Pentagon, Washington, DC 20301–1155, or by phone at (571) 372–0461.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or at the Defense Privacy and Civil Liberties Division Web site at *http://dpcld.defense.gov/.*

The proposed system report, as required by U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on February 6, 2015, to the House Committee on Oversight and Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: February 6, 2015.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DPR 45 DoD

SYSTEM NAME:

Military OneSource (MOS) Case Management System (CMS) (October 15, 2014, 79 FR 61854).

CHANGES:

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with ''Individual's full name, date of birth, gender, marital status, relationship to service member, rank, unit, branch of military service, military status, current address and mailing address, telephone number, email address, participant ID and case number (automatically generated internal numbers not provided to the participant), Employer Identification Number, presenting issue/information requested, handoff type to contractor, handoff notes, if interpretation is requested and the language, referrals, and feedback from quality assurance follow-up with participants.

Non-medical counseling information includes psychosocial history; assessment of personal concerns; provider name, phone number, and location; authorization number; and outcome summary.''

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete entry and replace with ''Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, the records contained herein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To authorized DoD MOS contractors for the purpose of responding to service member or family member need.

To contractors and grantees for the purpose of supporting research studies concerned with the effectiveness of non-medical counseling interventions.

To local law enforcement entities for the purpose of intervention to prevent harm to the individual (self) in accordance with DoD regulations and established protocols.

Any release of information contained in this system of records outside the DoD under a routine use will be compatible with the purpose(s) for which the information is collected and maintained.

The DoD Blanket Routine Uses set forth at the beginning of the Office of the Secretary of Defense (OSD) compilation of systems of records notices may apply to this system. The complete list of DoD Blanket Routine Uses can be found online at: *http://dpcld.defense.gov/Privacy/SORNsIndex/BlanketRoutineUses.aspx''*

* * * * *

[FR Doc. 2015–02847 Filed 2–10–15; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2015–OS–0015]

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary of Defense, DoD.

ACTION: Notice to alter a System of Records.

SUMMARY: The Office of the Secretary of Defense proposes to alter a system of records, DMDC 15 DoD, entitled ''Armed Services Military Accession Testing'' in its inventory of record systems subject to the Privacy Act of 1974, as amended. The system is used to establish eligibility for enlistment; verify enlistment and placement scores; verify retest eligibility; and provide aptitude test scores as an element of career guidance to participants in the DoD Student Testing Program. The data is also used for research, marketing evaluation, assessment of manpower trends and characteristics; and related statistical studies and reports. The data is used on a continuing basis for the purpose of regeneration of scores and reclassification, and score quality evaluation. Records are also used as a management tool for statistical analysis, tracking, reporting, evaluating program effectiveness and conducting research.

DATES: Comments will be accepted on or before March 13, 2015. This proposed action will be effective the date following the end of the comment period unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

* *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, 2nd Floor, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Cindy Allard, Chief, OSD/JS Privacy Office, Freedom of Information Directorate, Washington Headquarters Service, 1155 Defense Pentagon, Washington, DC 20301–1155, or by phone at (571) 372–0461.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or at the Defense Privacy and Civil Liberties Division Web site at *http://dpcld.defense.gov/.* The proposed system report, as required by U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on February 6, 2015, to the House Committee on Oversight and Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: February 6, 2015.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DMDC 15 DoD

SYSTEM NAME:

Armed Services Military Accession Testing (January 3, 2011, 76 FR 111).

CHANGES:

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with ''Individuals name, Social Security Number (SSN), address, telephone number, date of birth, sex, ethnic group identification, educational grade, rank, booklet number of ASVAB test, individuals plans after graduation, and individual item responses to ASVAB subtests and associated accession tests, test dates and test scores.''

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete entry and replace with ''In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, the records contained herein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To Federally Funded Research Development Centers for the purpose of conducting analyses on DoD accession policies.

To the United States Coast Guard to establish eligibility for enlistment; verify enlistment and placement scores; verify retest eligibility; and provide aptitude test scores as an element of career guidance to participants in the DoD Student Testing Program.

Disclosure of information to the National Archives and Records Administration routine use: A record from a system of records maintained by a DoD Component may be disclosed as

a routine use to the National Archives and Records Administration for the purpose of records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

Data breach remediation purposes routine use: A record from a system of records maintained by a Component may be disclosed to appropriate agencies, entities, and persons when (1) The Component suspects or has confirmed that the security or confidentiality of the information in the system of records has been compromised; (2) the Component has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Component or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Components efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.''

The DoD Blanket Routine Uses set forth at the beginning of the Secretary of Defense (OSD) compilation of systems of records notices may apply to this system. The complete list of DoD blanket routine uses can be found online at: *http://dpcld.defense.gov/Privacy/SORNsIndex/BlanketRoutineUses.aspx*.

* * * * *

SAFEGUARDS:

Delete entry and replace with ''Computerized records are maintained in a controlled area accessible only to authorized personnel. Entry to these areas is restricted to those personnel with a valid requirement and authorization to enter. Physical entry is restricted by the use of locks, guards, and administrative procedures (*e.g.,* fire protection regulations).

Access to personal information is restricted to those who require the records in the performance of their official duties. Access to personal information is further restricted by the use of Common Access Cards. All individuals granted accesses to this system of records are to have received annual Information Assurance and Privacy Act training.

Periodic security audits are performed on the system. User's security practices are regularly monitored. System backups are encrypted and stored off site.''

RETENTION AND DISPOSAL:

Delete entry and replace with ''MEPCOM-

Test scores transmittals and qualification test answer records are maintained for one year then destroyed.

DMDC-

Test results from High School students are de-identified within 6 months of receipt and are destroyed annually when 50 years old. All other test results are de-identified when 10 years old and destroyed annually when 50 years old.''

* * * * *

NOTIFICATION PROCEDURE:

Delete entry and replace with ''Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Director, Defense Manpower Data Center, 4800 Mark Center Drive, Alexandria, VA 22350; or Deputy Director, Defense Manpower Data Center, DoD Center Monterey Bay, 400 Gigling Road, Seaside, CA 93955–6771.

Signed, written requests should contain the individual's full name, SSN, current address, and date tested.''

RECORD ACCESS PROCEDURES:

Delete entry and replace with ''Individuals seeking access to information about themselves contained in this system should address written inquiries to the Office of the Secretary of Defense/Joint Staff Freedom of Information Act Requester Service Center, 1155 Defense Pentagon, Washington, DC 20301–1155.

Signed, written requests should contain the individual's full name, SSN, current address, date tested, and the number of this system of records notice.''

* * * * *

[FR Doc. 2015–02848 Filed 2–10–15; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the U.S. Naval Academy Board of Visitors; Correction

AGENCY: Department of the Navy, DoD.

ACTION: Notice of partially closed meeting; correction.

SUMMARY: The Department of the Navy published a document in the **Federal Register** (80 FR 5098) of January 30, 2015, concerning the U.S. Naval Academy Board of Visitors meeting on March 2, 2015 in which the executive session of this meeting will be closed from 11:00 a.m. to 12:00 p.m. The document contained an incorrect approving authority.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Eric Madonia, USN, Executive Secretary to the Board of Visitors, Office of the Superintendent, U.S. Naval Academy, Annapolis, MD 21402–5000, 410–293–1503.

Correction: In the **Federal Register** (80 FR 5098) of January 30, 2015, on page 5098, in the second column, correct the approving authority to read:

1. Accordingly, the DoN/Assistant for Administration has determined in writing that the meeting shall be partially closed to the public because the discussions during the executive session from 11:00 a.m. to 12:00 p.m. will be concerned with matters coming under sections 552b(c) (5), (6), and (7) of title 5, United States Code.

Dated: February 3, 2015.

N.A. Hagerty-Ford,

Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2015–02798 Filed 2–10–15; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2015–ICCD–0014]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; State Tribal Education Partnership (STEP)

AGENCY: Office of Elementary and Secondary Education (OESE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before March 13, 2015.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2015–ICCD–0014 or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted; ED will ONLY accept*

comments during the comment period in this mailbox when the regulations.gov site is not available. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Mailstop L–OM–2–2E319, Room 2E105, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Jessica Skrebes, (202) 260–1406.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: State Tribal Education Partnership (STEP).

OMB Control Number: 1810–NEW.

Type of Review: A new information collection.

Respondents/Affected Public: State, Local and Tribal Governments.

Total Estimated Number of Annual Responses: 80.

Total Estimated Number of Annual Burden Hours: 4,000.

Abstract: The purposes of the State Tribal Education Partnership (STEP) program are to: (1) Promote increased collaboration between Tribal educational agencies (TEAs) and the State educational agencies (SEAs) and local educational agencies (LEAs) that serve students from affected tribes; and (2) build the capacity of TEAs to conduct certain administrative functions under certain Elementary and Secondary Education Act of 1965 (ESEA) formula grant programs for eligible schools, as determined by the TEA, SEA, and LEA. This award is made under the Indian Education National Activities authority, as authorized under ESEA title VII, Part A (Title VII). During the pilot of this grant competition, the Department of Education (Department) relied exclusively on selection criteria from the Education Department General Administrative Regulations and therefore used the generic application package approved under 1894–0006. For the FY 2015 grant competition, the Department proposes to use program-specific selection criteria, seeking approval for a new discretionary STEP grant application.

Dated: February 6, 2015.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2015–02816 Filed 2–10–15; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2015–ICCD–0013]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Application for Grants Under the Strengthening Institutions Program (1894–0001)

AGENCY: Office of Postsecondary Education (OPE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), ED is proposing a reinstatement of a previously approved information collection.

DATES: Interested persons are invited to submit comments on or before March 13, 2015.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2015–ICCD–0113 or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted; ED will ONLY accept comments during the comment period in this mailbox when the regulations.gov site is not available.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Mailstop L–OM–2–2E319, Room 2E105, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Nalini Lamba-Nieves, 202–502–7562.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Application for Grants Under the Strengthening Institutions Program (1894–0001).

OMB Control Number: 1840–0114.

Type of Review: A reinstatement of a previously approved information collection.

Respondents/Affected Public: Private Sector.

Total Estimated Number of Annual Responses: 590.

Total Estimated Number of Annual Burden Hours: 38,350.

Abstract: This collection is the application booklet for the Strengthening Institutions Program (SIP), CFDA# 84.031A & 84.031F. SIP provides grants to eligible institutions of higher education (IHEs) to improve their academic programs, institutional management, and fiscal stability to increase their self-sufficiency and strengthen their capacity. Funding is targeted to institutions that enroll a large proportion of financially disadvantaged students and have low per-student expenditures. Section 311(b) and section 391(a)(1) of title III, part A of the Higher Education Act of 1965, as amended (HEA), 20 U.S.C. 1057 and the governing regulations (34 CFR 607.1–607.31) require collection of the information identified in the application package, in order to make awards.

Dated: February 5, 2015.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2015–02737 Filed 2–10–15; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Extension

AGENCY: U.S. Energy Information Administration (EIA), Department of Energy.

ACTION: Agency information collection activities: Information collection extension; notice and request for comments.

SUMMARY: The EIA, pursuant to the Paperwork Reduction Act of 1995, intends to extend for three years with the Office of Management and Budget (OMB), Form EIA–851A ''Domestic Uranium Production Report (Annual),'' Form EIA–851Q ''Domestic Uranium Production Report (Quarterly),'' and Form EIA–858 ''Uranium Marketing Annual Survey.'' Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments regarding this proposed information collection must be received on or before April 13, 2015. If you anticipate difficulty in submitting comments within that period, contact the person listed in **ADDRESSES** as soon as possible.

ADDRESSES: Written comments may be sent to Douglas Bonnar, Operations Research Analyst, by fax at 202–586–3045, or by email at *douglas.bonnar@eia.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Douglas Bonnar, *douglas.bonnar@eia.gov, http://www.eia.gov/survey/#uranium.*

SUPPLEMENTARY INFORMATION: This information collection request contains: (1) OMB No. 1905–0160; (2) *Information Collection Request Title:* Uranium Data Program; (3) *Type of Request:* Three-year extension; (4) *Purpose:* Uranium Data Program is intended to collect high-quality statistical data on domestic uranium supply and demand activities, including production, exploration and development, trade, and purchases and sales available to the U.S. The audience for these data includes the Congress, other Executive Branch agencies, the nuclear and uranium industry, and the public in general. Form EIA–851A collects annual data from the U.S. uranium industry on uranium milling and processing, uranium feed sources, uranium mining, employment, drilling, expenditures, and uranium reserves. The data collected appear in the following EIA publication: *Domestic Uranium Production Report—Annual, http://www.eia.gov/uranium/production/annual/.* Form EIA–851Q collects monthly data from the U.S. uranium industry on uranium production and sources (mines and other) on a quarterly basis. The data collected appear in the following EIA publication: *Domestic Uranium Production Report—Quarterly, http://www.eia.gov/uranium/production/quarterly/.* Form EIA–858 collects annual data from the U.S. uranium market on uranium contracts, deliveries, inventories, enrichment services purchased, uranium use in fuel assemblies, feed deliveries to enrichers, and unfilled market requirements. Uranium deliveries, feed deliveries to enrichers, and unfilled market requirements are reported both for the current reporting year and for the following ten years. The data collected appear in the following EIA publications: *Uranium Marketing Annual Report, http://www.eia.gov/uranium/marketing/* and *Domestic Uranium Production Report—Annual, http://www.eia.gov/uranium/production/annual/;* (4) Proposed Changes to Information Collection: EIA is proposing no changes to Forms EIA–851A, EIA–851Q, and EIA–858; (5) Annual Estimated Number of Respondents: 101; (6) Annual Estimated Number of Total Responses: 169; (7) Annual Estimated Number of Burden Hours: 1,227; (8) Annual Estimated Reporting and Recordkeeping Cost Burden: EIA estimates that there are no additional costs to respondents associated with the surveys other than the costs associated with the burden hours. The information is maintained in the normal course of business. The cost of burden hours to the respondents is estimated to be $88,307 (1,227 burden hours times $71.97 per hour). Therefore, other than the cost of burden hours, EIA estimates that there are no additional costs for generating, maintaining and providing the information.

Statutory Authority: Section 13(b) of the Federal Energy Administration Act of 1974, Pub. L. 93–275, codified at 15 U.S.C. 772(b).

Issued in Washington, DC, on February 5, 2015.

Nanda Srinivasan,

Director, Office of Survey Development and Statistical Integration, U.S. Energy Information Administration.

[FR Doc. 2015–02844 Filed 2–10–15; 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 corporate filings:

Docket Numbers: EC15–58–000.

Applicants: ALLETE Clean Energy, Inc., Chanarambie Power Partners LLC.

Description: Supplemental clarification to January 14, 2015 Joint Application Under Section 203 of the Federal Power Act of ALLETE Clean Energy, Inc. and Chanarambie Power Partners, LLC.

Filed Date: 2/4/15.

Accession Number: 20150204–5167.

Comments Due: 5 p.m. ET 2/17/15.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG15–46–000.
Applicants: Pio Pico Energy Center, LLC.
Description: Notice of Self-Certification of Pio Pico Energy Center, LLC.
Filed Date: 2/5/15.
Accession Number: 20150205–5039.
Comments Due: 5 p.m. ET 2/26/15.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER11–3417–008; ER10–2895–012; ER14–1964–003; ER13–2143–005; ER10–3167–004; ER13–203–004; ER11–2292–012; ER11–3942–011; ER11–2293–012; ER10–2917–012; ER11–2294–011; ER12–2447–010; ER13–1613–005; ER10–2918–013; ER12–199–011; ER10–2920–012; ER11–3941–010; ER10–2921–012; ER10–2922–012; ER13–1346–004; ER10–2966–012; ER11–2383–007; ER10–3178–005.
Applicants: Alta Wind VIII, LLC, Bear Swamp Power Company LLC, BIF II Safe Harbor Holdings LLC, Black Bear Development Holdings, LLC, Black Bear Hydro Partners, LLC, Black Bear SO, LLC, Brookfield Energy Marketing Inc., Brookfield Energy Marketing LP, Brookfield Energy Marketing US LLC, Brookfield Power Piney & Deep Creek LLC, Brookfield Renewable Energy Marketing US, Brookfield Smoky Mountain Hydropower LLC, Brookfield White Pine Hydro LLC, Carr Street Generating Station, L.P., Coram California Development, L.P., Erie Boulevard Hydropower, L.P., Granite Reliable Power, LLC, Great Lakes Hydro America, LLC, Hawks Nest Hydro LLC, Mesa Wind Power Corporation, Rumford Falls Hydro LLC, Safe Harbor Water Power Corporation, Windstar Energy, LLC.
Description: Notice of Change in Status of the Brookfield Companies.
Filed Date: 2/4/15.
Accession Number: 20150204–5181.
Comments Due: 5 p.m. ET 2/25/15.

Docket Numbers: ER13–2073–001.
Applicants: Source Power & Gas LLC.
Description: Notice of Change in Status of Source Power & Gas LLC.
Filed Date: 2/4/15.
Accession Number: 20150204–5180.
Comments Due: 5 p.m. ET 2/25/15.

Docket Numbers: ER15–988–000.
Applicants: Arizona Public Service Company.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Modifications to OATT Schedules 3, 5 and 6 to be effective 4/6/2015.
Filed Date: 2/4/15.
Accession Number: 20150204–5148.
Comments Due: 5 p.m. ET 2/25/15.

Docket Numbers: ER15–989–000.
Applicants: Southern California Edison Company.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Amended CLGIA and Distribution Service Agmt with Windhub Solar, LLC to be effective 2/6/2015.
Filed Date: 2/5/15.
Accession Number: 20150205–5004.
Comments Due: 5 p.m. ET 2/26/15.

Docket Numbers: ER15–990–000.
Applicants: Southwest Power Pool, Inc.
Description: Petition Of Southwest Power Pool, Inc. For Waiver Of Tariff Provisions.
Filed Date: 2/4/15.
Accession Number: 20150204–5179.
Comments Due: 5 p.m. ET 2/25/15.

Docket Numbers: ER15–991–000.
Applicants: Pacific Gas and Electric Company.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Amendment to the Vaca-Dixon Solar Station SGIA to be effective 4/7/2015.
Filed Date: 2/5/15.
Accession Number: 20150205–5109.
Comments Due: 5 p.m. ET 2/26/15.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: February 5, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–02817 Filed 2–10–15; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2010–0751; FRL–9922–14]

Methomyl; Cancellation Order for Amendments to Terminate 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 methomyl, pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). This cancellation order follows a November 5, 2014, **Federal Register** Notice of Receipt of Requests from the registrants listed in Table 2 of Unit II. to voluntarily amend certain methomyl product registrations to terminate uses of barley, oats, and rye from these product registrations. These are not the last products containing this pesticide registered for use in the United States. In the November 5, 2014, 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.

DATES: The amendments are effective March 18, 2015.

FOR FURTHER INFORMATION CONTACT: Tom Myers, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 308–8589; email address: *myers.tom@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–2010–0751, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

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 (7 U.S.C. 136a). These registrations are listed in sequence by registration number in Table 1 of this unit.

TABLE 1—METHOMYL PRODUCT REGISTRATION AMENDMENTS TO DELETE USES

EPA registration No.	Product name	Uses deleted
352–342	Dupont Lannate SP Insecticide	Barley, Oats, Rye.
352–361	Dupont Methomyl Composition	Barley, Oats, Rye.
352–366	Dupont Methomyl Technical	Barley, Oats, Rye.
352–384	Dupont Lannate LV Insecticide	Barley, Oats, Rye.
400–597	Annihilate LV	Barley, Oats, Rye.
400–598	Annihilate SP	Barley, Oats, Rye.
70552–2	Methomyl Technical	Barley, Oats, Rye.
81598–9	Rotam Methomyl Technical	Barley, Oats, Rye.
82557–2	Methomyl 29% SL Insecticide	Barley, Oats, Rye.
82557–3	Methomyl 90% SP	Barley, Oats, Rye.
83100–27	Rotam Methomyl 29LV Insecticide	Barley, Oats, Rye.
83100–28	Rotam Methomyl 90SP Insecticide	Barley, Oats, Rye.

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 of this unit.

TABLE 2—REGISTRANTS OF AMENDED PRODUCTS

EPA company No.	Company name and address
352	E. I. Du Pont de Nemours and Company, 1007 Market Street, Wilmington, DE 19898–0001.
400	Macdermid Agricultural Solutions, Inc., c/o Chemtura Corporation, 199 Benson Road, Middlebury, CT 06749,
70552	Sinon Corporation, c/o Biologic, Inc., 115 Obtuse Hill Road, Brookfield, CT 06804.
81598	Rotam Limited, c/o Wagner Regulatory Associates, Inc., P.O. Box 640, 7217 Lancaster Pike, Suite A, Hockessin, DE 19707.
82557	Sinon USA, Inc., c/o Biologic, Inc., 115 Obtuse Hill Road, Brookfield, CT 06804.
83100	Rotam Agrochemical Company, Ltd., c/o Wagner Regulatory Associates, Inc., P.O. Box 640, 7217 Lancaster Pike, Suite A, Hockessin, DE 19707.

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 5, 2014, **Federal Register** notice (79 FR 65656) (FRL–9918–46) 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) (7 U.S.C. 136d(f)(1)), EPA hereby approves the requested amendments to terminate uses of methomyl 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 cancellations that are subject of this notice is March 18, 2015. 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 (7 U.S.C. 136d(f)(1)) 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 in the **Federal Register** of November 5, 2014. The comment period closed on December 5, 2014.

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 provisions 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 for 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.

Authority: 7 U.S.C. 136 *et seq.*

Dated: January 26, 2015.

Richard P. Keigwin, Jr.,

Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.

[FR Doc. 2015–02706 Filed 2–10–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2014–0502; FRL–9921–92]

Badger Technical Services, LLC; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that pesticide related information submitted to EPA's Office of Pesticide Programs (OPP) pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA), including information that may have been claimed as Confidential Business Information (CBI) by the submitter, will be transferred to Badger Technical Services, LLC, in accordance with 40 CFR 2.307(h)(3) and 2.308(i)(2). Badger Technical Services, LLC, has been awarded multiple contracts to perform work for OPP, and access to this information will enable Badger Technical Services, LLC, to fulfill the obligations of the contract.

DATES: Badger Technical Services, LLC, will be given access to this information on or before February 17, 2015.

FOR FURTHER INFORMATION CONTACT: Mario Steadman, Information Technology and Resources Management Division (7502P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 305–8338, *steadman.mario@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action applies to the public in general. As such, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How can I get copies of this document and other related information?

EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2014–0502. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov,* or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

II. Contractor Requirements

Under this contract number, EP–D–13–052, the contractor will perform the following:

Furnish the necessary personnel, supplies, and equipment except as otherwise defined, to perform toxicological and ecological research support services for the United States, EPA, ORD/NHEERL Mid-Continent Ecology Division (MED), Duluth, Minnesota. Obtain from sources which have been approved by EPA, transport or arrange for shipping to MED, and hold in the culturing unit, cultures of multiple species of fish and invertebrates. Operate and maintain the Organism Culture Unit 24 hours a day, seven days a week, with the goal of providing the highest quality organisms for MBD's research projects. Provide electronic scientific equipment support.

This contract involves no subcontractors.

OPP has determined that the contract described in this document involves work that is being conducted in connection with FIFRA, pesticide chemicals will be the subject of certain evaluations to be made under this contract. These evaluations may be used in subsequent regulatory decisions under FIFRA.

Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 4, 6, and 7 of FIFRA and under sections 408 and 409 of FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(3), the contract with Badger Technical Services, LLC, prohibits use of the information for any purpose not specified in this contract; prohibits disclosure of the information to a third party without prior written approval from the Agency; and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release and to handle it in accordance with the *FIFRA Information Security Manual.* In addition, Badger Technical Services, LLC, is required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to Badger Technical Services, LLC, until the requirements in this document have been fully satisfied. Records of information provided to Badger Technical Services, LLC, will be maintained by EPA Project Officers for this contract. All information supplied to Badger Technical Services, LLC, by EPA for use in connection with this contract will be returned to EPA when Badger Technical Services, LLC, has completed its work.

Authority: 7 U.S.C. 136 *et seq.*

Dated: January 28, 2015.

Mark A. Hartman,

Director, Information Technology and Resource Management Division, Office of Pesticide Programs.

[FR Doc. 2015–02580 Filed 2–10–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL 9922–85–OGC]

Proposed Consent Decree, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed consent decree; request for public comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended

(''CAA'' or the ''Act''), notice is hereby given of a proposed consent decree to address a lawsuit filed by the Sierra Club in the United States District Court for the Northern District of California: *Sierra Club* v. *McCarthy,* Civil Action No. 3:12–cv–6472–CRB (N.D. Cal.). On December 21, 2012, Plaintiff filed a complaint alleging that Gina McCarthy, in her official capacity as Administrator of the United States Environmental Protection Agency (''EPA''), failed to perform a mandatory duty by not acting on 2006 PM 2.5 infrastructure state implementation plans (iSIPs) for six states and failed to promulgate transport federal implementation plans (FIPs) for an additional 20 states and the District of Columbia. The proposed consent decree would establish deadlines for EPA to take actions.

DATES: Written comments on the proposed consent decree must be received by March 13, 2015.

ADDRESSES: Submit your comments, identified by Docket ID number EPA–HQ–OGC–2015–0079, online at *www.regulations.gov* (EPA's preferred method); by email to *oei.docket@epa.gov;* by mail to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; or by hand delivery or courier to EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding legal holidays. Comments on a disk or CD–ROM should be formatted in Word or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

FOR FURTHER INFORMATION CONTACT: Ragan S. Tate, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone: (202) 564–7382; fax number: (202) 564–5603; email address: *tate.ragan@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Additional Information About the Proposed Consent Decree

The proposed consent decree would resolve a lawsuit filed by the Sierra Club seeking to compel the Administrator to take actions on 2006 PM 2.5 infrastructure SIPs for six states and to promulgate transport FIPs for an additional 20 states and the District of Columbia. The proposed consent decree (1) agrees that no claim is stated as to an iSIP claim for Illinois and deems an iSIP claim as to California moot as EPA has acted on submittals relating to those claims, (2) agrees that no claim is stated for failure to issue transport FIPs for 10 states which were included in CSAPR as it is the transport FIP for those states, and (3) deems transport FIP obligations for 5 states (Alaska, Montana, North Dakota, Louisiana, & Utah) moot as EPA has acted on those transport SIPs.

Under the terms of the proposed consent decree, by November 30, 2015, EPA shall take final action to approve or disapprove a SIP on the remaining iSIP elements for California, Illinois, Michigan, Nebraska, South Dakota and Wisconsin. In addition, the proposed consent decree states that EPA shall take final action to promulgate a good neighbor FIP or approve a SIP regarding the transport obligations for 5 remaining states and the District of Columbia which final action must be signed for Colorado and Wyoming by July 31, 2015, for Oregon by September 30, 2015, and for the District of Columbia, South Dakota, and Idaho, by November 30, 2015.

The proposed consent decree requires EPA to send notice of each action to the Office of the Federal Register for review and publication within 15 days of signature. In addition, the proposed consent decree outlines the procedure for the Plaintiff to request costs of litigation, including attorney fees. When these obligations have been completed, the case shall be terminated and dismissed with prejudice.

For a period of thirty (30) days following the date of publication of this notice, the Agency will accept written comments relating to the proposed consent decree from persons who are not named as parties or intervenors to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed consent decree if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines that consent to this consent decree should be withdrawn, the terms of the consent decree will be affirmed.

II. Additional Information About Commenting on the Proposed Consent Decree

A. How can I get a copy of the consent decree?

The official public docket for this action (identified by EPA–HQ–OGC–2015–0079) contains a copy of the proposed consent decree. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The EPA Docket Center 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 OEI Docket is (202) 566–1752.

An electronic version of the public docket is available through *www.regulations.gov.* You may use *www.regulations.gov* to submit or view public comments, access the index listing of the contents of the official public docket, and access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select ''search''.

It is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing online at *www.regulations.gov* without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in the official public docket or in the electronic public docket. EPA's policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

B. How and to whom do I submit comments?

You may submit comments as provided in the **ADDRESSES** section. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an email address or other contact information in the body of your comment and with any disk or CD ROM you submit. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information

on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. 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.

Use of the *www.regulations.gov* Web site to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an ''anonymous access'' system, which means EPA will not know your identity, email address, or other contact information unless you provide it in the body of your comment. In contrast to EPA's electronic public docket, EPA's electronic mail (email) system is not an ''anonymous access'' system. If you send an email comment directly to the Docket without going through *www.regulations.gov,* your email address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: February 4, 2015.

Brian L. Doster,

Acting Associate General Counsel.

[FR Doc. 2015–02858 Filed 2–10–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2014–0577; FRL–9922–11]

Diclofop-methyl; Notice of Receipt of Request To Voluntarily Cancel Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is issuing a notice of receipt of a request by the registrants to voluntarily cancel all pesticide product registrations containing the pesticide diclofop-methyl. The request would cancel diclofop-methyl use in or on wheat, barley, and golf course turf and would terminate the last diclofop-methyl products registered for use in the United States. EPA intends to grant this request at the close of the comment period for this announcement unless the Agency receives substantive comments within the comment period that would merit its further review of the request, or unless the registrants withdraw their request. The cancellation for diclofop-methyl products will be effective on January 1, 2018 as described in Unit II below. If this request is granted, any sale, distribution, or use of products listed in this notice will be permitted after the registrations have been cancelled only if such sale, distribution, or use is consistent with the terms as described in the final order.

DATES: Comments must be received on or before March 13, 2015.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2014–0577, by one of the following methods:

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

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

FOR FURTHER INFORMATION CONTACT: Rich Dumas, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 308–8115; email address: *dumas.richard@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. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

II. Background on the Receipt of Requests To Cancel Registrations

This notice announces receipt by EPA of a request from registrants, Bayer CropScience and Bayer Environmental Science, to cancel all diclofop-methyl product registrations. Diclofop-methyl is a restricted use herbicide registered for use on wheat, barley, and golf course turf to control wild oats and annual grassy weeds. In a letter dated October 23, 2014, Bayer CropScience and Bayer Environmental Science requested EPA to cancel certain pesticide product registrations identified in Table 1 of Unit III. Specifically, Bayer requests that all diclofop-methyl registrations be cancelled effective January 1, 2018. This action will terminate the last diclofop-methyl products registered in the United States.

III. What action is the agency taking?

This notice announces receipt by EPA of a request from registrants to cancel all diclofop-methyl product registrations. The affected products and the registrants making the requests are identified in Tables 1 and 2 of this unit.

On September 24, 2014, the public phase of registration review for diclofop-methyl began with the opening of the initial docket (EPA–HQ–OPP–2014–0577) and publication of the Preliminary Work Plan (PWP) and supporting science documents. The comment period for the diclofop-methyl registration review docket was open for 60 days, from September 24, 2014 to November 24, 2014. The Agency's projected registration review timeline described in the PWP established that preliminary risk assessments would be completed by December 2018, and the final registration decision would be

completed in 2020. The technical registrants subsequently requested cancellation of all diclofop-methyl products effective January 1, 2018.

Unless a request is withdrawn by the registrant or if the Agency determines that there are substantive comments that warrant further review of this request, EPA intends to issue an order canceling the affected registrations.

TABLE 1—DICLOFOP-METHYL PRODUCT REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration No.	Product name	Company
264–641	Hoelon 3EC Herbicide	Bayer CropScience.
264–642	Hoelon Technical	Bayer CropScience.
432–1231	Illoxan 3EC Herbicide	Bayer Environmental Science.

Table 2 of this unit includes the names and addresses of record for the registrants of the products listed 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 of this unit.

TABLE 2—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION AND/OR AMENDMENTS

EPA company No.	Company name and address
264	Bayer CropScience.
432	Bayer Environmental Science.

IV. What is the agency's authority for taking this action?

Section 6(f)(1) of FIFRA (7 U.S.C. 136d(f)(1)) 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**.

Section 6(f)(1)(B) of FIFRA (7 U.S.C. 136d(f)(1)(B)) requires that before acting on a request for voluntary cancellation, EPA must provide a 30-day public comment period on the request for voluntary cancellation or use termination. In addition, FIFRA section 6(f)(1)(C) (7 U.S.C. 136d(f)(1)(C)) requires that EPA provide a 180-day comment period on a request for voluntary cancellation or termination of any minor agricultural use before granting the request, unless:

1. The registrants request a waiver of the comment period, or
2. The EPA Administrator determines that continued use of the pesticide would pose an unreasonable adverse effect on the environment.

Because diclofop-methyl is not registered for any minor agricultural uses, this 180-day comment provision does not apply, and EPA is providing a 30-day comment period on the proposed voluntary cancellation of diclofop-methyl registrations.

V. Procedures for Withdrawal of Requests

Registrants who choose to withdraw a request for product cancellation or use deletion should submit the withdrawal in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. If the products(s) have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling.

VI. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products that are currently in the United States and that were packaged, labeled, and released for shipment prior to the effective date of the action. If the request for voluntary cancellation is granted, the Agency intends to publish the cancellation order in the **Federal Register**. Because these diclofop-methyl products are reregistered pesticides, there are no known risks of concern, and the effective cancellation date for the products will occur two years prior to the time of the planned registration review decision for diclofop-methyl, the Agency expects to grant this request unless the Agency receives substantive comments that warrant further review of the request or the registrants withdraw their request. In 2015, the Agency intends to issue an order in the **Federal Register** canceling all registrations effective January 1, 2018. On issuance of the cancellation order, EPA anticipates allowing registrants to sell and distribute existing stocks of these products until January 1, 2018. Thereafter, registrants will be prohibited from selling or distributing the pesticides identified in Table 1 of Unit III., except for export consistent with FIFRA section 17 or for proper disposal. Persons other than registrants will generally be allowed to sell, distribute, or use existing stocks until such stocks are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the canceled products.

Authority: 7 U.S.C. 136 *et seq.*

Dated: January 30, 2015.

Richard P. Keigwin, Jr.,

Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.

[FR Doc. 2015–02861 Filed 2–10–15; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0928]

Information Collection Being Submitted for Review and Approval to the Office of Management and Budget

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 Communications 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 March 13, 2015. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, 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:

OMB Control Numbers: 3060–0928.

Title: FCC Form 2100, Application for Media Bureau Audio and Video Service Authorization, Schedule F (Formerly FCC 302–CA); 47 CFR 73.3572(h) and 47 CFR 73.3700.

Form Numbers: FCC Form 2100, Schedule F.

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/Responses: 521 respondents; 521 responses.

Estimated Hours per Response: 2 hours.

Frequency of Response: On occasion reporting requirement; one time reporting requirement.

Total Annual Burden: 1,042 hours.

Total Annual Cost: $148,485.

Obligation To Respond: Required to obtain benefits. The statutory authority for this information collection is contained in sections 154(i), 307, 308, 309 and 319 of the Communications Act of 1934, as amended.

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

Privacy Act Assessment: No impact(s).

Needs and Uses: In the Notice of Proposed Rulemaking (NPRM), FCC 12–118, released by the Commission on October 2, 2012, it is proposed that, following the completion of the incentive auction process, all channel sharing Class A stations will need to file FCC Form 302–CA (now renamed FCC Form 2100, Schedule F) for their shared channel facility. The NPRM adopts the following proposed information collection requirements:

47 CFR 73.3700—Channel sharing Class A stations will need to file FCC Form 302–CA (now renamed FCC Form 2100, Schedule F) for their shared channel facility.

The Commission submitted this collection to the Office of Management and Budget (OMB) at the NPRM stage as described above. On January 7, 2013, OMB issued a notice of action stating comment on proposed rule and continue. With this submission, the Commission is seeking OMB final approval for the information collection requirements that were proposed in FCC 12–118 and adopted as proposed in FCC 14–50.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of the Managing Director.

[FR Doc. 2015–02717 Filed 2–10–15; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1146]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before April 13, 2015. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1146.

Title: Implementation of the Twenty-first Century Communications and Video Accessibility Act of 2010, Section 105, Relay Services for Deaf-Blind Individuals, CG Docket No. 10–210.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households; Businesses or other for-profit entities; Not-for-profit Institutions; State, local or tribal governments.

Number of Respondents and Responses: 56 respondents; 2,493 responses.

Estimated Time per Response: 0.5 to 20 hours.

Frequency of Response: Annual, monthly, quarterly, and semi-annually reporting requirements; Record keeping requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in Sections 1, 4(i), 4(j), and 719 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), and 620.

Total Annual Burden: 5,850 hours.

Total Annual Cost: None.

Nature and Extent of Confidentiality: Confidentiality is an issue to the extent that individuals and households provide personally identifiable information (PII), which is covered under the FCC's system of records notice (SORN), FCC/CGB–3, ''National Deaf-Blind Equipment distribution Program.'' As required by the Privacy Act, 5 U.S.C. 552a, the Commission also published a SORN, FCC/CGB–3 ''National Deaf-Blind Equipment Distribution Program,'' in the **Federal Register** on January 19, 2012 (77 FR 2721) which became effective on February 28, 2012. Also, the Commission is in the process of preparing the new privacy impact assessment (PIA) related to the PII covered by these information collections, as required by OMB's Memorandum M–03–22 (September 26, 2003) and by the Privacy Act, 5 U.S.C. 552a.

Privacy Impact Assessment: Yes. The Commission is in the process of preparing the new privacy impact assessment (PIA) related to the PII covered by these information collections, as required by OMB's Memorandum M–03–22 (September 26, 2003) and by the Privacy Act, 5 U.S.C. 552a.

Needs and Uses: On April 6, 2011, in document FCC 11–56, the Commission released a *Report and Order* adopting final rules to implement section 719 of the Communications Act of 1934 (the Act), as amended, which was added to the Act by the ''Twenty-First Century Communications and Video Accessibility Act of 2010'' (CVAA). *See* Public Law 111–260, § 105. Section 719 of the Act authorizes up to $10 million annually from the Interstate Telecommunications Relay Service Fund (TRS Fund) to support eligible programs that distribute equipment designed to make telecommunications service, Internet access service, and advanced communications accessible by low-income individuals who are deaf-blind. Specifically, the rules adopted in document FCC 11–56 established the National Deaf-Blind Equipment Distribution Program (NDBEDP) as a pilot program. The rules adopted in document FCC 11–56 have the following information collection requirements:

(a) State equipment distribution programs, other public programs, and private entities may submit applications for NDBEDP certification to the Commission. For each state, the Commission certifies a single program as the sole authorized entity to participate in the NDBEDP and receive reimbursement from the TRS Fund.

(b) Each program certified under the NDBEDP must submit certain program-related data electronically to the Commission, as instructed by the NDBEDP Administrator, every six months, commencing with the start of the pilot program.

(c) Each program certified under the NDBEDP must retain all records associated with the distribution of equipment and provision of related services under the NDBEDP for two years following the termination of the pilot program.

(d) Each program certified under the NDBEDP must obtain verification that NDBEDP applicants meet the definition of an individual who is deaf-blind.

(e) Each program certified under the NDBEDP must obtain verification that NDBEDP applicants meet the income eligibility requirements.

(f) Programs certified under the NDBEDP are reimbursed for the cost of equipment that has been distributed to eligible individuals and authorized related services, up to the state's funding allotment under this program. Within 30 days after the end of each six-month period of the Fund Year, each program certified under the NDBEDP pilot must submit documentation that supports its claim for reimbursement of the reasonable costs of equipment and related services.

On March 20, 2012 in document DA 12–430, the Commission released an *Order* to conditionally waive the requirement in section (f), above, for NDBEDP certified programs to submit reimbursement claims at the end of each six-month period of the TRS Fund Year to permit certified programs to submit reimbursement claims as frequently as monthly. Each certified program that wishes to take advantage of this waiver to elect a monthly or quarterly reimbursement schedule, must notify the TRS Fund Administrator of its election at the start of each Fund Year, and must maintain that schedule for the duration of the Year.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of the Managing Director.

[FR Doc. 2015–02780 Filed 2–10–15; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of the Termination of the Receivership of 10435, HarVest Bank of Maryland, Gaithersburg, Maryland

Notice Is Hereby Given that the Federal Deposit Insurance Corporation (''FDIC'') as Receiver for HarVest Bank of Maryland, Gaithersburg, Maryland, (''the Receiver'') intends to terminate its receivership for said institution. The FDIC was appointed receiver of HarVest Bank of Maryland on April 27, 2012. The liquidation of the receivership assets has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the Receiver has determined that the continued existence of the receivership will serve no useful purpose. Consequently, notice is given that the receivership shall be terminated, to be effective no sooner than thirty days after the date of this Notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date of this Notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 32.1, 1601 Bryan Street, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

Dated: February 6, 2015.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2015–02786 Filed 2–10–15; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments

on the agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. Copies of the agreements are available through the Commission's Web site (*www.fmc.gov*) or by contacting the Office of Agreements at (202) 523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 011279–029.

Title: Latin America Agreement.

Parties: ABC Discussion Agreement; Caribbean Shipowners Association; Central America Discussion Agreement; Compania Libra de Navegacion Uruguay S.A.; Venezuelan Discussion Agreement; West Coast of South America Discussion Agreement; and Zim Integrated Shipping Services, Ltd.

Filing Party: Wayne R. Rohde, Esq.; Cozen O'Connor; 1627 I Street, NW.; Suite 1100; Washington, DC 20006.

Synopsis: The amendment deletes the lists of member lines of the constituent agreements.

Agreement No.: 011830–009.

Title: Indamex Cross Space Charter, Sailing and Cooperative Working Agreement.

Parties: APL Co. Pte Ltd; American President Lines, Ltd.; CMA CGM S.A.; Hapag-Lloyd AG; Nippon Yusen Kaisha; Orient Overseas Container Line Limited.

Filing Parties: Wayne R. Rohde, Esq.; Cozen O'Connor; 1627 I Street NW.; Suite 1100; Washington, DC 20006.

Synopsis: The amendment would list the duration of APL's membership in the agreement, make APL a space charterer during the period between the effectiveness of the amendment and the effective date of its resignation, and revise the agreement to reflect changes in vessel provisions resulting from the change in APL's status. The Amendment would also make certain technical corrections to the agreement and restate the agreement.

Agreement No.: 012084–005.

Title: HLAG/Maersk Line Gulf-South America Slot Charter Agreement.

Parties: Hapag-Lloyd AG: A.P. Moller-Maersk A/S.

Filing Party: Wayne R. Rohde, Esq.; Cozen O'Connor; 1627 I Street NW.; Suite 1100; Washington, DC 20006.

Synopsis: The amendment replaces A.P. Moller-Maersk A/S with Maersk Line A/S.

Agreement No.: 012184–003.

Title: Crowley/Maersk Line Panama-U.S. Space Charter Agreement.

Parties: Crowley Latin America Services, LLC and A.P. Moller-Maersk A/S.

Filing Party: Wayne R. Rohde, Esq.; Cozen O'Connor; 1627 I Street NW.; Suite 1100; Washington, DC 20006–4007.

Synopsis: The amendment changes the name of the Maersk entity that is party to the agreement.

Agreement No.: 012238–001.

Title: HLAG/Maersk Line Gulf-Central America Slot Charter Agreement.

Parties: Hapag-Lloyd AG and A.P. Moller-Maersk A/S trading under the name Maersk Line.

Filing Party: Wayne R. Rohde; Cozen O'Connor; 1627 I Street NW.; Suite 1100; Washington, DC 20006.

Synopsis: The agreement changes the name of the Maersk entity that is party to the agreement.

Agreement No.: 012260–001.

Title: MSC/Maersk Line USEC–WCSA Space Charter Agreement.

Parties: MSC Mediterranean Shipping Company and A.P. Moller Maersk A/S.

Filing Party: Wayne R. Rohde, Esq.; Cozen O'Connor; 1627 I Street NW.; Suite 1100; Washington, DC 20006.

Synopsis: The Amendment replaces A.P. Moller-Maersk A/S with Maersk Line A/S and updates the contact information for MSC.

Agreement No.: 012295–001.

Title: Hoegh/Hyundai Glovis Middle East Space Charter Agreement.

Parties: Hoegh Autoliners AS and Hyundai Glovis Co. Ltd.

Filing Party: Wayne R. Rohde, Esq.; Cozen O'Connor; 1627 I Street, NW.; Suite 1100; Washington, DC 20006.

Synopsis: The amendment would add India to the scope of the Agreement.

Agreement No.: 012316.

Title: CMA CGM/HSDG/UASC/Vessel Sharing Agreement.

Parties: CMA CGM, S.A.; Hamburg Sud; United Arab Shipping Co.

Filing Party: Draughn B. Arbona, Esq; CMA CGM (America) LLC; 5701 Lake Wright Drive; Norfolk, VA 23502

Synopsis: The Agreement establishes a Vessel Sharing Agreement among the parties in the trade between the Far East, Colombia, U.S. East Coast and North Europe.

By Order of the Federal Maritime Commission.

Dated: February 6, 2015.

Karen V. Gregory,

Secretary.

[FR Doc. 2015–02822 Filed 2–10–15; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act (PRA), pursuant to 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320 Appendix A.1. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before April 13, 2015.

ADDRESSES: You may submit comments, identified by *FR 2018, FR 2023, FR 2028A, FR 2028B, FR 2028S, or FR Y–8,* by any of the following methods:

- Agency Web site: *http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Email: *regs.comments@federalreserve.gov.* Include OMB number in the subject line of the message.
- FAX: (202) 452–3819 or (202) 452–3102.
- Mail: Robert deV. Frierson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room MP–500 of the Board's Martin Building (20th and C Streets NW.) between 9:00 a.m. and 5:00 p.m. on weekdays.

Additionally, commenters may send a copy of their comments to the OMB Desk Officer—Shagufta Ahmed—Office

of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235 725 17th Street NW., Washington, DC 20503 or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the PRA OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, once approved. These documents will also be made available on the Federal Reserve Board's public Web site at: *http://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Acting Clearance Officer—John Schmidt—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

Request for Comment on Information Collection Proposals

The following information collections, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collections, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or start up costs and costs of operation, maintenance, and purchase of services to provide information.

Proposal To Approve Under OMB Delegated Authority the Extension for Three Years, Without Revision, of the Following Reports

1. *Report title:* Senior Loan Officer Opinion Survey on Bank Lending Practices.

Agency form number: FR 2018.

OMB control number: 7100–0058.

Frequency: Up to six times a year.

Reporters: Domestically chartered large commercial banks and large U.S. branches and agencies of foreign banks.

Estimated annual reporting hours: 1,248 hours.

Estimated average hours per response: 2 hours.

Number of respondents: 104.

General description of report: This information collection is authorized by Sections 2A, 11 and 12A of the Federal Reserve Act (12 U.S.C. 225a, 248(a) and 263) and Section 7 of the International Banking Act (12 U.S.C. 3105(c)(2)) and is voluntary. Individual survey responses from each respondent can be held confidential under section (b)(4) of the Freedom of Information Act (5 U.S.C. 552(b)(4)). However, certain data from the survey is reported is aggregate from and the information in aggregate form is made publicly available and not considered confidential.

Abstract: The FR 2018 is conducted with a senior loan officer at each respondent bank, generally through electronic submission, up to six times a year. The purpose of the survey is to provide qualitative and limited quantitative information on credit availability and demand, as well as evolving developments and lending practices in the U.S. loan markets. Consequently, a portion of the questions in each survey typically covers special topics of timely interest. There is the option to survey other types of respondents (such as other depository institutions, bank holding companies, or other financial entities) should the need arise. The FR 2018 survey provides crucial information for monitoring and understanding the evolution of lending practices at banks and developments in credit markets.

2. *Report title:* Senior Financial Officer Survey.

Agency form number: FR 2023.

OMB control number: 7100–0223.

Frequency: Up to four times a year.

Reporters: Domestically chartered large commercial banks.

Estimated annual reporting hours: 960 hours.

Estimated average hours per response: 3 hours.

Number of respondents: 80.

General description of report: This information collection is authorized by Sections 2A, 11 and 12A of the Federal Reserve Act (12 U.S.C. 225a, 248(a), and 263) and is voluntary. The ability of the Federal Reserve to maintain the confidentiality of information provided by respondents to the FR 2023 surveys will be determined on a case by case basis depending on the data collected under a particular survey. The individual survey responses from each respondent can be held confidential under section (b)(4) of the Freedom of Information Act (5 U.S.C. 552(b)(4)).

Abstract: The Federal Reserve uses this voluntary survey to collect qualitative and limited quantitative information about liability management, the provision of financial services, and the functioning of key financial markets. Responses are obtained from a senior officer at each participating institution usually through an electronic submission. The survey is conducted when major informational needs arise and cannot be met from existing data sources. The survey does not have a fixed set of questions; each survey consists of a limited number of questions directed at topics of timely interest. The survey helps pinpoint developing trends in bank funding practices, enabling the Federal Reserve to distinguish these trends from transitory phenomena.

3. *Report title:* Survey of Terms of Lending.

Agency form number: FR 2028A, FR 2028B, and FR 2028S.

OMB control number: 7100–0061.

Frequency: Quarterly.

Reporters: Commercial banks (FR 2028A, FR 2028B, and FR 2028S) and U.S. branches and agencies of foreign banks (FR 2028A and FR 2028S only).

Estimated annual reporting hours: 7,358 hours.

Estimated average hours per response: FR 2028A, 3.6 hours; FR 2028B, 1.4 hours; and FR 2028S, 0.1 hours.

Number of respondents: FR 2028A, 398; FR 2028B, 250; and FR 2028S, 567.

General description of report: This information collection is authorized by section 11(a)(2) of the Federal Reserve Act (12 U.S.C. 248(a)(2)) and is voluntary. Individual responses reported on the FR 2028A and FR 2028B are regarded as confidential under the Freedom of Information Act (5 U.S.C. 552(b)(4)).

Abstract: The Survey of Terms of Lending collects unique information concerning price and certain nonprice terms of loans made to businesses and farmers during the first full business week of the mid-month of each quarter (February, May, August, and November). The survey comprises three reporting forms: the FR 2028A, Survey

of Terms of Business Lending; the FR 2028B, Survey of Terms of Bank Lending to Farmers; and the FR 2028S, Prime Rate Supplement to the Survey of Terms of Lending. The FR 2028A and FR 2028B collect detailed data on individual loans made during the survey week, and the FR 2028S collects the prime interest rate for each day of the survey from both FR 2028A and FR 2028B respondents. From these sample STL data, estimates of the terms of business loans and farm loans extended during the reporting week are constructed. The aggregate estimates for business loans are published in the quarterly E.2 release, *Survey of Terms of Business Lending,* and aggregate estimates for farm loans are published in the E.15 release, *Agricultural Finance Databook.*

Current Actions: While there are no proposed changes to the current FR 2028A, FR 2028B, and FR 2028S reporting forms, the Federal Reserve requests comment on whether banks perceive an alternative way to collect these data that would be more informative or less burdensome.

4. *Report title:* Bank Holding Company Report of Insured Depository Institutions' Section 23A Transactions with Affiliates.

Agency form number: FR Y–8.

OMB control number: 7100–0126.

Frequency: Quarterly.

Reporters: Top-tier bank holding companies (BHCs), including financial holding companies (FHCs) and savings and loan holding companies (SLHCs), for all insured depository institutions that are owned by the BHC and by foreign banking organizations (FBOs) that directly own a U.S. subsidiary bank.

Estimated annual reporting hours: Institutions with covered transactions, 30,326 hours; Institutions without covered transactions, 17,096 hours.

Estimated average hours per response: Institutions with covered transactions, 7.8 hours; Institutions without covered transactions, 1 hour.

Number of respondents: Institutions with covered transactions, 972; Institutions without covered transactions, 4,274.

General description of report: This information collection is mandatory pursuant to section 5(c) of the Bank Holding Company Act (12 U.S.C. 1844(c)); section 225.5(b) of Regulation Y (12 CFR 225.5(b)); and Section 10(b)(2) of the Home Owners' Loan Act (12 U.S.C. 1467a(b)(2)), as amended by section 369 of the Dodd-Frank Act. The data are confidential pursuant to the Freedom of Information Act (5 U.S.C. § 552(b)(4)). Section (b)(4) exempts information deemed competitively sensitive from disclosure.

Abstract: The FR Y–8 collects information on transactions between an insured depository institution and its affiliates that are subject to section 23A of the Federal Reserve Act. The primary purpose of the data is to enhance the Federal Reserve's ability to monitor insured depository institutions' exposures to affiliates and to ensure insured depository institutions' compliance with section 23A of the Federal Reserve Act. Section 23A of the Federal Reserve Act is one of the most important statutes on limiting exposures to individual institutions and protecting against the expansion of the federal safety net.

Board of Governors of the Federal Reserve System, February 6, 2015.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2015–02791 Filed 2–10–15; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Savings and Loan Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and the Board's Regulation LL (12 CFR part 238) to acquire shares of a savings and loan 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 February 26, 2015.

A. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street NE., Atlanta, Georgia 30309:

1. *James L. Clayton,* Knoxville, Tennessee, acting individually, and in concert with a control group, which consists of Flynt Griffin, Coral Gables, Florida; and BF3 LP, Knoxville, Tennessee; and with Karen Davis, Scottsdale, Arizona; Kevin Clayton, Knoxville, Tennessee; Amy M. Stevens, John's Island, South Carolina; James Clayton, Jr., Knoxville, Tennessee; BF3 Management, LLC, Knoxville, Tennessee; and the Clayton Family Trust and its trustee, Mark Freeman, both of Knoxville, Tennessee, as controlling partners of BF3 LP, to acquire voting shares of MidCountry Financial Corp, Macon, Georgia, and thereby indirectly acquire voting shares of MidCountry Bank, Marion, Illinois.

Board of Governors of the Federal Reserve System, February 6, 2015.

Margaret McCloskey Shanks,

Deputy Secretary of the Board.

[FR Doc. 2015–02800 Filed 2–10–15; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 9, 2015.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Chemical Financial Corporation,* Midland, Michigan; to merge with Lake Michigan Financial Corporation, Holland, Michigan, and thereby indirectly acquire The Bank of Holland, Holland, Michigan, and The Bank of Northern Michigan, Petoskey, Michigan.

Board of Governors of the Federal Reserve System, February 6, 2015.

Margaret McCloskey Shanks,

Deputy Secretary of the Board.

[FR Doc. 2015–02799 Filed 2–10–15; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

The comment period for these applications has been extended. Comments regarding these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 26, 2015.

A. Federal Reserve Bank of New York (Ivan Hurwitz, Vice President) 33 Liberty Street, New York, New York 10045–0001:

1. *CIT Group Inc., Livingston, New Jersey, and its subsidiary, Carbon Merger Sub LLC,* New York, New York; to acquire 100 percent of the voting shares of, and to merge with, IMB Holdco LLC, and thereby indirectly acquire voting shares of OneWest Bank, N.A., both in Pasadena, California. In addition, Carbon Merger Sub LLC has applied to become a bank holding company.

Board of Governors of the Federal Reserve System.

Margaret McCloskey Shanks,

Deputy Secretary of the Board.

[FR Doc. 2015–02839 Filed 2–10–15; 8:45 am]

BILLING CODE 6210–01–P

FINANCIAL STABILITY OVERSIGHT COUNCIL

Notice Seeking Comment on Asset Management Products and Activities

AGENCY: Financial Stability Oversight Council.

ACTION: Notice; extension of comment period.

SUMMARY: On December 24, 2015, the Financial Stability Oversight Council (the Council) published a ''Notice Seeking Comment on Asset Management Products and Activities'' (the Notice), which states that comments on the Notice must be received not later than February 23, 2015. The Council has determined that an extension of the comment period until March 25, 2015, is appropriate.

DATES: Comments must be received not later than March 25, 2015.

ADDRESSES: You may submit comments by any of the methods identified in the Notice. Please submit your comments using only one method.

FOR FURTHER INFORMATION CONTACT: Patrick Pinschmidt, Deputy Assistant Secretary for the Financial Stability Oversight Council, Department of the Treasury, at (202) 622–2495; Lyndsay Huot, Senior Policy Advisor, Office of the Financial Stability Oversight Council, Department of the Treasury, at (202) 622–5874; or Eric Froman, Office of the General Counsel, Department of the Treasury, at (202) 622–1942.

SUPPLEMENTARY INFORMATION: On December 24, 2014, the Council published the Notice,[1] seeking comment on whether and how certain asset management products and activities could pose potential risks to U.S. financial stability. Specifically, the Notice requests information about whether risks associated with liquidity and redemptions, leverage, operational functions, and resolution in the asset management industry could affect U.S. financial stability. The Notice states that comments must be received no later than February 23, 2015. The Council has determined that an extension of the comment period until March 25, 2015, is appropriate in order to provide the public more time to review, consider, and comment on the Notice.

[1] Notice Seeking Comment on Asset Management Products and Activities, 79 **Federal Register** 77,488 (Dec. 24, 2014).

Dated: February 4, 2015.

Patrick Pinschmidt,

Deputy Assistant Secretary for the Financial Stability Oversight Council, Department of the Treasury, Executive Director, Financial Stability Oversight Council.

[FR Doc. 2015–02813 Filed 2–10–15; 8:45 am]

BILLING CODE 4810–25–P

FINANCIAL STABILITY OVERSIGHT COUNCIL

Supplemental Procedures Relating to Nonbank Financial Company Determinations

AGENCY: Financial Stability Oversight Council.

ACTION: Notice of document availability.

SUMMARY: This notice announces the availability of ''Supplemental Procedures Relating to Nonbank Financial Company Determinations'' (Supplemental Procedures).

DATES: Effective [DATE TBD].

ADDRESSES: Copies of the Supplemental Procedures are located on the Financial Stability Oversight Council Web site, available at *www.fsoc.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Deputy Assistant Secretary for the Financial Stability Oversight Council, Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

SUPPLEMENTARY INFORMATION: Section 113 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act) authorizes the Financial Stability Oversight Council (the Council) to determine that a nonbank financial company shall be supervised by the Board of Governors of the Federal Reserve System and be subject to enhanced prudential standards if the Council determines that material financial distress at the company, or the nature, scope, size, scale, concentration, interconnectedness, or mix of the activities of the company, could pose a threat to the financial stability of the United States.

The Council has conducted a review of its practices related to the evaluation of nonbank financial companies under section 113 of the Dodd-Frank Act. The Council's review included engagement with financial companies, trade associations, nonbank financial companies subject to Council determinations, public interest groups, members of Congress and their staffs, and other stakeholders. At its open meeting on January 21, 2015, the Council discussed its engagement with

stakeholders and changes recommended by staff to the Council's process for nonbank financial company determinations.

Based on its review, the Council has adopted the Supplemental Procedures, which the Council intends to use for determinations in non-emergency situations, to supplement its rule and interpretive guidance regarding nonbank financial company determinations.[1] The Council will continue to work to identify and evaluate additional potential enhancements to its practices and procedures that would promote the Council's commitment to active engagement with companies under consideration for a determination and to transparency to the public.

Patrick Pinschmidt,

Deputy Assistant Secretary for the Financial Stability Oversight Council, Department of the Treasury, Executive Director, Financial Stability Oversight Council.

[FR Doc. 2015–02812 Filed 2–10–15; 8:45 am]

BILLING CODE 4810–25–P–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Information Collection Activities; Proposed Collection; Public Comment Request

AGENCY: Electronic Government Office, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, Grants.gov (EGOV), Department of Health and Human Services, announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). The ICR is for a 3 year renewal of a previously-approved information collection assigned OMB control number 4040–0007—SF–424 B Assurances for Non-Construction Programs, which expired on June 30, 2014. The ICR also requests categorizing the form as a common form, meaning HHS will only request approval for its own use of the form rather than aggregating the burden estimate across all Federal Agencies as was done for previous actions on this OMB control number. Prior to submitting that ICR to OMB, EGOV seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: The 60-day Comment Period closed on January 5, 2015. No comments were received. Comments on the ICR must be received on or before March 13, 2015.

ADDRESSES: Submit your comments to *Information.CollectionClearance@hhs.gov* or by calling (202) 690–6162.

FOR FURTHER INFORMATION CONTACT: Information Collection Clearance staff, *Information.CollectionClearance@hhs.gov* or (202) 690–6162.

SUPPLEMENTARY INFORMATION: Form is available upon request.

Information Collection Request Title: SF–424 B Assurances for Non-Construction Programs.

Abstract: SF–424 B Assurances for Non-Construction Programs is used as by the grant applicant when requesting funds for non-construction grant programs.

Need and Proposed Use of the Information: The SF–424 B Assurances for Non-Construction Programs form is used as by the grant applicant when requesting funds for non-construction grant programs. The Federal awarding agencies use information submitted on this form for award determination of the Federal assistance awards programs.

Likely Respondents: Federal grant applicants.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions, to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information, to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information, and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
	40,000	1	1	40,000
Total	40,000	1	1	40,000

Grants.gov specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Darius Taylor,

Information Collection Clearance Officer.

[FR Doc. 2015–02764 Filed 2–10–15; 8:45 am]

BILLING CODE 4150–37–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Information Collection Activities; Proposed Collection; Public Comment Request

AGENCY: Electronic Government Office, Department of Health and Human Services.

ACTION: Notice.

[1] Authority to Require Supervision and Regulation of Certain Nonbank Financial Companies, 12 CFR part 1310 (2013).

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, Grants.gov (EGOV), Department of Health and Human Services, announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). The ICR is for issuance of a new expiration date of a previously-approved information collection assigned OMB control number 4040–0014—SF–425 Federal Financial Report, which expires on February 28, 2015. The ICR also requests categorizing the form as a common form, meaning HHS will only request approval for its own use of the form rather than aggregating the burden estimate across all Federal Agencies as was done for previous actions on this OMB control number. Prior to submitting that ICR to OMB, EGOV seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: The 60-day Comment Period closed on January 5, 2015. No comments were received. Comments on the ICR must be received on or before March 13, 2015.

ADDRESSES: Submit your comments to *ed.calimag@hhs.gov* or (202) 690–7569.

FOR FURTHER INFORMATION CONTACT: Information Collection Clearance staff, *Information.CollectionClearance@hhs.gov* or (202) 690–6162.

SUPPLEMENTARY INFORMATION: Form is available upon request.

Information Collection Request Title: SF–425 Federal Financial Report.

Abstract: The SF–425 Federal Financial Report is used by persons who request or receive a Federal contract, grant, cooperative agreements, loan or a Federal commitment to insure or guarantee a loan for financial reporting to the awarding agency.

Need and Proposed Use of the Information: The SF–425 Federal Financial Report is used by persons who request or receive a Federal contract, grant, cooperative agreements, loan or a Federal commitment to insure or guarantee a loan. The Federal awarding agencies and OMB use information reported on this form for general management of the Federal assistance awards programs

Likely Respondents: Federal grant award recipients.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions, to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information, to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information, and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
	100,000	1	1	100,000
Total	100,000	1	1	100,000

Grants.gov specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Darius Taylor,

Information Collection Clearance Officer.

[FR Doc. 2015–02771 Filed 2–10–15; 8:45 am]

BILLING CODE 4150–37–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Information Collection Activities; Proposed Collection; Public Comment Request

AGENCY: Electronic Government Office, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, Grants.gov (EGOV), Department of Health and Human Services, announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). The ICR is for reinstatement of a previously-approved information collection assigned OMB control number 4040–0003—SF424—Short Organizational, which expired on July 30, 2011. The ICR also requests categorizing the form as a common form, meaning HHS will only request approval for its own use of the form rather than aggregating the burden estimate across all Federal Agencies as was done for previous actions on this OMB control number. Prior to submitting that ICR to OMB, EGOV seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: The 60-day Comment Period closed on January 5, 2015. No comments were received. Comments on the ICR must be received on or before March 13, 2015.

ADDRESSES: Submit your comments to *Information.CollectionClearance@hhs.gov* or by calling (202) 690–6162.

FOR FURTHER INFORMATION CONTACT: Information Collection Clearance staff, *Information.CollectionClearance@hhs.gov* or (202) 690–6162.

SUPPLEMENTARY INFORMATION: Form is available upon request.

Information Collection Request Title: SF–424 Short Organizational Form.

Abstract: The SF–424 Short Organizational Form provides the Federal grant-making agencies a simplified alternative to the Standard Form 424 data set and form. Agencies may use the SF–424 Short Organizational Form for grant programs not required to collect all the data that is required on the SF–424 core data set and form.

Need and Proposed Use of the Information: To obtain Federal grants funds, applicant organizations must apply to the Federal agency or organization responsible for administering the grant program. The

SF–424 Short Organizational Form will be used by applicants to apply for Federal grants and for Federal agencies to review submissions for Federal grants funds.

Likely Respondents: Federal grant applicants.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions, to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information, to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information, and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
	8,388	1	1	8,388
Total	8,388	1	1	8,388

Grants.gov specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Darius Taylor,

Information Collection Clearance Officer.

[FR Doc. 2015–02761 Filed 2–10–15; 8:45 am]

BILLING CODE 4150–28–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Information Collection Activities; Proposed Collection; Public Comment Request

AGENCY: Electronic Government Office, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, Grants.gov (EGOV), Department of Health and Human Services, announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). The ICR is for reinstatement of a previously-approved information collection assigned OMB control number 4040–0011—SF–271 Outlay Report and Request for Reimbursement for Construction Programs, which expired on October 31, 2013. The ICR also requests categorizing the form as a common form, meaning HHS will only request approval for its own use of the form rather than aggregating the burden estimate across all Federal Agencies as was done for previous actions on this OMB control number. Prior to submitting that ICR to OMB, EGOV seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: The 60-day Comment Period closed on January 5, 2015. No comments were received. Comments on the ICR must be received on or before March 13, 2015.

ADDRESSES: Submit your comments to *ed.calimag@hhs.gov* or (202) 690–7569.

FOR FURTHER INFORMATION CONTACT: Information Collection Clearance staff, *Information.CollectionClearance@hhs.gov* or (202) 690–6162.

SUPPLEMENTARY INFORMATION: Form is available upon request.

Information Collection Request Title: SF–271 Outlay Report and Request for Reimbursement for Construction Programs.

Abstract: The SF–271 Outlay Report and Request for Reimbursement for Construction Programs is used to request funds for all non-construction grant programs when letters of credit or predetermined advance methods are not used.

Need and Proposed Use of the Information: The SF–271 is used to request reimbursement for all construction programs. The Federal awarding agencies and OMB use information reported on this form for general management of the Federal assistance awards programs.

Likely Respondents: Federal grant award recipients.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions, to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information, to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information, and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
	40,000	1	1	40,000
Total	40,000	1	1	40,000

Grants.gov specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Darius Taylor,

Information Collection Clearance Officer.

[FR Doc. 2015–02768 Filed 2–10–15; 8:45 am]

BILLING CODE 4150–37–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Information Collection Activities; Proposed Collection; Public Comment Request

AGENCY: Electronic Government Office, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, Grants.gov (EGOV), Department of Health and Human Services, announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). The ICR is for reinstatement of a previously-approved information collection assigned OMB control number 4040–0016—SF–429 Real Property Status Report, which expired on July 31, 2014. The ICR also requests categorizing the form as a common form, meaning HHS will only request approval for its own use of the form rather than aggregating the burden estimate across all Federal Agencies as was done for previous actions on this OMB control number. Prior to submitting that ICR to OMB, EGOV seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: The 60-day Comment Period closed on January 5, 2015. No comments were received. Comments on the ICR must be received on or before March 13, 2015.

ADDRESSES: Submit your comments to *ed.calimag@hhs.gov* or (202) 690–7569.

FOR FURTHER INFORMATION CONTACT: Information Collection Clearance staff, *Information.CollectionClearance@hhs.gov* or (202) 690–6162.

SUPPLEMENTARY INFORMATION: Form is available upon request.

Information Collection Request Title: SF–429 Real Property Status Report.

Abstract: SF–429 Real Property Status Report standard disclosure reporting form for lobbying paid for with non-Federal funds.

Need and Proposed Use of the Information: This is a standard report to be used by recipients of Federal financial assistance to report real property status (Attachment A) or to request agency instructions on real property (Attachments B, C) that was/will be provided as Government Furnished Property (GFP) or acquired (*i.e.,* purchased or constructed) in whole or in part under a Federal financial assistance award (*i.e.,* grant, cooperative agreement, etc.). This includes real property that was improved using Federal funds and real property that was donated to a Federal project in the form of a match or cost share donation. This report is to be used for awards that establish a Federal Interest on real property.

Likely Respondents: Federal grant award recipients.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions, to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information, to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information, and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
	100,000	1	1	100,000
Total	100,000	1	1	100,000

Grants.gov specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Darius Taylor,

Information Collection Clearance Officer.

[FR Doc. 2015–02773 Filed 2–10–15; 8:45 am]

BILLING CODE 4150–37–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Information Collection Activities; Proposed Collection; Public Comment Request

AGENCY: Electronic Government Office, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, Grants.gov (EGOV), Department of Health and Human Services, announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). The ICR is for a 3 year renewal of a previously-approved information collection assigned OMB control number 4040–0008—SF–424 C Budget Information for Construction Programs, which expired on June 30, 2014. The ICR also requests categorizing the form as a common form, meaning HHS will only request approval for its own use of the form rather than aggregating the burden estimate across all Federal Agencies as was done for previous actions on this OMB control number. Prior to submitting that ICR to OMB, EGOV seeks comments from the public

regarding the burden estimate, below, or any other aspect of the ICR.

DATES: The 60-day Comment Period closed on January 5, 2015. No comments were received. Comments on the ICR must be received on or before March 13, 2015.

ADDRESSES: Submit your comments to *ed.calimag@hhs.gov* or by calling (202) 690–7569.

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–EGOV–21479–60D for reference.

Information Collection Request Title: SF–424 C Budget Information for Construction Programs.

Abstract: SF–424 C Budget Information for Construction Programs is used to request funds for construction grant programs.

Need and Proposed Use of the Information: The SF–424 C Budget Information for Construction Programs is used to request funds for construction grant programs. The Federal awarding agencies use information submitted on this form for award determination of the Federal assistance awards programs.

Likely Respondents: Federal grant applicants.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions, to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information, to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information, and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
	1,254	1	1	1,254
Total	1,254	1	1	1,254

Grants.gov specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Darius Taylor,

Information Collection Clearance Officer.

[FR Doc. 2015–02765 Filed 2–10–15; 8:45 am]

BILLING CODE 4150–37–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Information Collection Activities; Proposed Collection; Public Comment Request

AGENCY: Electronic Government Office, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, Grants.gov (EGOV), Department of Health and Human Services, announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). The ICR is for reinstatement of a previously-approved information collection assigned OMB control number 4040–0013—SF–LLL—Disclosure of Lobbying Activities, which expired on December 31, 2013. The ICR also requests categorizing the form as a common form, meaning HHS will only request approval for its own use of the form rather than aggregating the burden estimate across all Federal Agencies as was done for previous actions on this OMB control number. Prior to submitting that ICR to OMB, EGOV seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: The 60-day Comment Period closed on January 5, 2015. No comments were received. Comments on the ICR must be received on or before March 13, 2015.

ADDRESSES: Submit your comments to *ed.calimag@hhs.gov* or (202) 690–7569.

FOR FURTHER INFORMATION CONTACT: Information Collection Clearance staff, *Information.CollectionClearance@hhs.gov* or (202) 690–6162.

SUPPLEMENTARY INFORMATION: Form is available upon request.

Information Collection Request Title: Disclosure of Lobbying Activities.

Abstract: The SF–LLL is the standard disclosure reporting form for lobbying paid for with non-Federal funds, as required by the Byrd Amendment, as amended by the Lobbying Disclosure Act of 1995.

Need and Proposed Use of the Information: The SF–LLL is the standard disclosure reporting form for lobbying paid for with non-Federal funds, as required by the Byrd Amendment, as amended by the Lobbying Disclosure Act of 1995. The form is used by persons who request or receive a Federal contract, grant, cooperative agreements, loan or a Federal commitment to insure or guarantee a loan. The Federal awarding agencies and OMB use information reported on this form for general management of the Federal assistance awards programs.

Likely Respondents: Federal grant award recipients.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions, to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information, to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information, and to

transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
	17,144	1	.25	4,286
Total	17,144	1	.25	4,286

Grants.gov specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Darius Taylor,

Information Collection Clearance Officer.

[FR Doc. 2015–02770 Filed 2–10–15; 8:45 am]

BILLING CODE 4150–37–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Information Collection Activities; Proposed Collection; Public Comment Request

AGENCY: Electronic Government Office, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, Grants.gov (EGOV), Department of Health and Human Services, announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). The ICR is for a 3 year renewal of a previously-approved information collection assigned OMB control number 4040–0006—SF–424 D Assurances for Construction Programs, which expired on June 30, 2014. The ICR also requests categorizing the form as a common form, meaning HHS will only request approval for its own use of the form rather than aggregating the burden estimate across all Federal Agencies as was done for previous actions on this OMB control number. Prior to submitting that ICR to OMB, EGOV seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: The 60-day Comment Period closed on January 5, 2015. No comments were received. Comments on the ICR must be received on or before March 13, 2015.

ADDRESSES: Submit your comments to *ed.calimag@hhs.gov* or (202) 690–7569.

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–EGOV–21478–60D for reference.

Information Collection Request Title: SF–424 D Assurances for Construction Programs.

Abstract: SF–424 D Assurances for Construction Programs is used as certification of assurances by the grant applicant when requesting funds for construction grant programs.

Need and Proposed Use of the Information: The SF–424 D Assurances for Construction Programs form is used as certification of assurances by the grant applicant when requesting funds for non-construction grant programs. The Federal awarding agencies use information submitted on this form for award determination of the Federal assistance awards programs.

Likely Respondents: Federal grant applicants.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions, to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information, to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information, and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
	5,694	1	1	5,694
Total	5,694	1	1	5,694

Grants.gov specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Darius Taylor,

Information Collection Clearance Officer.

[FR Doc. 2015–02767 Filed 2–10–15; 8:45 am]

BILLING CODE 4150–37–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Information Collection Activities; Proposed Collection; Public Comment Request

AGENCY: Electronic Government Office, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Electronic Government Office (EGOV), Department of Health and Human Services, announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). The ICR is to reinstate the use of the previously approved information collection, Project Abstract Summary, assigned OMB control number 0980–0204 which expired on 11/30/2011, and to reinstate this information collection to 4040–0010 with a 3 year clearance. The ICR also requests categorizing the form as a common form, meaning HHS will only request approval for its own use of the form rather than aggregating the burden estimate across all Federal Agencies as was done for previous actions on this OMB control number. Prior to submitting that ICR to OMB, EGOV seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: The 60-day Comment Period closed on January 5, 2015. No comments were received. Comments on the ICR must be received on or before March 13, 2015.

ADDRESSES: Submit your comments to *ed.calimag@hhs.gov* or (202) 690–7569.

FOR FURTHER INFORMATION CONTACT: Information Collection Clearance staff, *Information.CollectionClearance@hhs.gov* or (202) 690–6162.

SUPPLEMENTARY INFORMATION: Form is available upon request.

Information Collection Request Title: Project Abstract Summary.

OMB No.: 4040–0010.

Abstract: The Project Abstract Summary provides the Federal grant-making agencies a simplified alternative to the Standard Form 424 data set and form. Agencies may use the Project Abstract Summary for grant programs not required to collect all the data that is required on the SF–424 core data set and form.

Need and Proposed Use of the Information: The Project Abstract Summary is used by the public to apply for Federal financial assistance in the forms of grants. These forms are submitted to the Federal grant-making agencies for evaluation and review.

Likely Respondents: Organizations and institutions seeking grants.

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 for the Department of Health and Human Services estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN FOR HHS—HOURS

Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Project Abstract Summary	4,270	1	1	4,270
Total	4,270	1	1	4,270

EGOV specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Darius Taylor,

Information Collection Clearance Officer.

[FR Doc. 2015–02766 Filed 2–10–15; 8:45 am]

BILLING CODE 4150–37–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Information Collection Activities; Proposed Collection; Public Comment Request

AGENCY: Electronic Government Office, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, Grants.gov (EGOV), Department of Health and Human Services, announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). The ICR is for a 3 year renewal of a previously-approved information collection assigned OMB control number 4040–0006—SF–424 A Budget Information for Non-Construction Programs, which expired on June 30, 2014. The ICR also requests categorizing the form as a common form, meaning HHS will only request approval for its own use of the form rather than aggregating the burden estimate across all Federal Agencies as was done for previous actions on this OMB control number. Prior to submitting that ICR to OMB, EGOV seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

Additionally, Grants.gov requests a change to the Application Instructions for this form. Application instructions are available from the Grants.gov program management office. The point of contact is Ed Calimag (*ed.calimag@hhs.gov*).

DATES: The 60-day Comment Period closed on January 5, 2015. No comments were received. Comments on the ICR must be received on or before March 13, 2015.

ADDRESSES: Submit your comments to *Information.CollectionClearance@hhs.gov* or by calling (202) 690–6162.

FOR FURTHER INFORMATION CONTACT: Information Collection Clearance staff, *Information.CollectionClearance@hhs.gov* or (202) 690–6162.

SUPPLEMENTARY INFORMATION: Form is available upon request.

Information Collection Request Title: SF–424 A Budget Information for Non-Construction Programs.

Abstract: SF–424 A Budget Information for Non-Construction Programs is used to request funds for non-construction grant programs.

Need and Proposed Use of the Information: The SF–424 A Budget Information for Non-Construction Programs is used to request funds for construction grant programs. The Federal awarding agencies use information submitted on this form for award determination of the Federal assistance awards programs.

Likely Respondents: Federal grant applicants.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions, to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information, to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information, and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
	40,000	1	1	40,000
Total	40,000	1	1	40,000

Grants.gov specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Darius Taylor,

Information Collection Clearance Officer.

[FR Doc. 2015–02762 Filed 2–10–15; 8:45 am]

BILLING CODE 4150–37–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Information Collection Activities; Proposed Collection; Public Comment Request

AGENCY: Electronic Government Office, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, Grants.gov (EGOV), Department of Health and Human Services, announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). The ICR is for reinstatement of a previously-approved information collection assigned OMB control number 4040–0012–SF–270: Request for Advance or Reimbursement, which expired on October 31, 2013. The ICR also requests categorizing the form as a common form, meaning HHS will only request approval for its own use of the form rather than aggregating the burden estimate across all Federal Agencies as was done for previous actions on this OMB control number. Prior to submitting that ICR to OMB, EGOV seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: The 60-day Comment Period closed on January 5, 2015. No comments were received. Comments on the ICR must be received on or before March 13, 2015.

ADDRESSES: Submit your comments to *ed.calimag@hhs.gov* or (202) 690–7569.

FOR FURTHER INFORMATION CONTACT: Information Collection Clearance staff, *Information.CollectionClearance@hhs.gov* or (202) 690–6162.

SUPPLEMENTARY INFORMATION: Form is available upon request.

Information Collection Request Title: Request for Advance or Reimbursement.

Abstract: The SF–270 is used to request funds for all non-construction grant programs when letters of credit or predetermined advance methods are not used.

Need and Proposed Use of the Information: The SF–270 is used to request funds for all non-construction grant programs when letters of credit or predetermined advance methods are not used. The ICR also requests categorizing the form as a common form, meaning HHS will only request approval for its own use of the form rather than aggregating the burden estimate across all Federal Agencies as was done for previous actions on this OMB control number. The Federal awarding agencies and OMB use information reported on this form for general management of the Federal assistance awards programs.

Likely Respondents: Federal grant award recipients.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions, to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information, to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review

the collection of information, and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
	100,000	1	1	100,000
Total	100,000	1	1	100,000

Grants.gov specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Darius Taylor,

Information Collection Clearance Officer.

[FR Doc. 2015–02769 Filed 2–10–15; 8:45 am]

BILLING CODE 4150–37–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Information Collection Activities; Proposed Collection; Public Comment Request

AGENCY: Electronic Government Office, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, Grants.gov (EGOV), Department of Health and Human Services, announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). The ICR is for reinstatement of a previously-approved information collection assigned OMB control number 4040–0002—SF424–Mandatory, which expired on May 31, 2014. The ICR also requests categorizing the form as a common form, meaning HHS will only request approval for its own use of the form rather than aggregating the burden estimate across all Federal Agencies as was done for previous actions on this OMB control number. Prior to submitting that ICR to OMB, EGOV seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: The 60-day Comment Period closed on January 5, 2015. No comments were received. Comments on the ICR must be received on or before April 13, 2015.

ADDRESSES: Submit your comments to *Information.CollectionClearance@hhs.gov* or by calling (202) 690–6162.

FOR FURTHER INFORMATION CONTACT: Information Collection Clearance staff, *Information.CollectionClearance@hhs.gov* or (202) 690–6162.

SUPPLEMENTARY INFORMATION: Form is available upon request.

Information Collection Request Title: SF–424 Mandatory Form.

Abstract: The SF–424 Mandatory Form provides the Federal grant-making agencies an alternative to the Standard Form 424 data set and form. Agencies may use the SF–424 Mandatory Form for grant programs not required to collect all the data that is required on the SF–424 core data set and form.

Need and Proposed Use of the Information: To obtain Federal grants funds, applicant organizations must apply to the Federal agency or organization responsible for administering the grant program. The SF–424 Mandatory Form will be used by applicants to apply for Federal grants and for Federal agencies to review submissions for Federal grants funds.

Likely Respondents: Federal grant applicants.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions, to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information, to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information, and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
	8,388	1	1	8,388
Total	8,388	1	1	8,388

Grants.gov specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information

technology to minimize the information collection burden.

Darius Taylor,

Information Collection Clearance Officer.

[FR Doc. 2015–02760 Filed 2–10–15; 8:45 am]

BILLING CODE 4150–37–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Decision To Evaluate a Petition To Designate a Class of Employees From the Carborundum Company in Niagara Falls, New York, To Be Included in the Special Exposure Cohort

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: NIOSH gives notice as required by 42 CFR 83.12(e) of a decision to evaluate a petition to designate a class of employees from the Carborundum Company in Niagara Falls, New York, to be included in the Special Exposure Cohort under the Energy Employees Occupational Illness Compensation Program Act of 2000. The initial proposed definition for the class being evaluated, subject to revision as warranted by the evaluation, is as follows:

Facility: Carborundum Company.

Location: Niagara Falls, New York.

Job Titles and/or Job Duties: All employees who worked in any area.

Period of Employment: January 1, 1943 through December 31, 1976.

FOR FURTHER INFORMATION CONTACT: Stuart L. Hinnefeld, Director, Division of Compensation Analysis and Support, National Institute for Occupational Safety and Health, 1090 Tusculum Avenue, MS C–46, Cincinnati, OH 45226–1938, Telephone 877–222–7570. Information requests can also be submitted by email to *DCAS@CDC.GOV.*

John Howard,

Director, National Institute for Occupational Safety and Health.

[FR Doc. 2015–02803 Filed 2–10–15; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Meeting for Software Developers on the Common Formats for Patient Safety Data Collection and Event Reporting

AGENCY: Agency for Healthcare Research and Quality (AHRQ), Department of Health and Human Services (HHS).

ACTION: Notice of public meeting.

SUMMARY: The Patient Safety and Quality Improvement Act of 2005, 42 U.S.C. 299b-21 to b-26, (Patient Safety Act) provides for the formation of Patient Safety Organizations (PSOs), which collect, aggregate, and analyze confidential information regarding the quality and safety of healthcare delivery. The Patient Safety Act (at 42 U.S.C. 299b–23(b)) authorizes the collection of this information in a standardized manner, as explained in the related Patient Safety and Quality Improvement Final Rule, 42 CFR part 3 (Patient Safety Rule), published in the **Federal Register** on November 21, 2008 (73 FR 70731–70814). AHRQ coordinates the development of common definitions and reporting formats (Common Formats) that allow healthcare providers to voluntarily collect and submit standardized information regarding patient safety events. In order to support the Common Formats, AHRQ has provided technical specifications to promote standardization by ensuring that data collected by PSOs and other entities are clinically and electronically comparable. More information on the Common Formats, including the technical specifications, can be obtained through AHRQ's PSO Web site: *http://www.PSO.AHRQ.GOV.*

The purpose of this notice is to announce a meeting to discuss the Common Formats. This meeting is designed as an interactive forum where software developers and PSOs can provide input on the formats. AHRQ especially requests participation by and input from those entities which have used AHRQ's technical specifications and implemented, or plan to implement, the formats electronically.

DATES: The meeting will be held from 10:00 a.m. to 3:30 p.m. on Friday, April 24, 2015.

ADDRESSES: The meeting will be held at the John M. Eisenberg Conference Center, Agency for Healthcare Research and Quality, 540 Gaither Road, Rockville, MD 20850.

FOR FURTHER INFORMATION CONTACT: Eileen Hogan, Center for Quality Improvement and Patient Safety, AHRQ, 540 Gaither Road, Rockville, MD 20850; Telephone (toll free): (866) 403–3697; Telephone (local): (301) 427–1111; TTY (toll free): (866) 438–7231; TTY (local): (301) 427–1130; Email: *PSO@AHRQ.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Patient Safety Act and Patient Safety Rule establish a framework by which doctors, hospitals, skilled nursing facilities, and other health care providers may voluntarily report information regarding patient safety events and quality of care. Information that is assembled and developed by providers for reporting to PSOs and the information received and analyzed by PSOs—called patient safety work product—is privileged and confidential. Patient safety work product is used to identify events, patterns of care, and unsafe conditions that increase risks and hazards to patients. Definitions and other details about PSOs and patient safety work product are included in the Patient Safety Rule.

The Patient Safety Act and Patient Safety Rule require PSOs, to the extent practicable and appropriate, to collect patient safety work product from providers in a standardized manner in order to permit valid comparisons of similar cases among similar providers. The collection of patient safety work product allows the aggregation of sufficient data to identify and address underlying causal factors of patient safety problems. Both the Patient Safety Act and Patient Safety Rule, including any relevant guidance, can be accessed electronically at: *http://www.PSO.AHRQ.GOV/LEGISLATION.*

In collaboration with the interagency Federal Patient Safety Workgroup (PSWG), the National Quality Forum (NQF) and the public, AHRQ has developed Common Formats for two settings of care—acute care hospitals and skilled nursing facilities—in order to facilitate standardized data collection. AHRQ's Common Formats include:

- Event descriptions (descriptions of patient safety events and unsafe conditions to be reported),
- Specifications for patient safety aggregate reports and individual event summaries,
- Delineation of data elements to be collected for different types of events to populate the reports,
- A user's guide and quick guide, and
- Technical specifications for electronic data collection and reporting.

AHRQ convenes the PSWG to assist AHRQ with developing and maintaining the Common Formats. The PSWG includes major health agencies within HHS—the Centers for Disease Control and Prevention, Centers for Medicare and Medicaid Services, Food and Drug Administration, Health Resources and Services Administration, Indian Health Service, National Institutes of Health, National Library of Medicine, Office of the National Coordinator for Health Information Technology, Office of Public Health and Science, and Substance Abuse and Mental Health Services Administration—as well as the Department of Defense and Department of Veterans Affairs.

When developing Common Formats, AHRQ first reviews existing patient safety event reporting systems from a variety of health care organizations. In collaboration with the PSWG and Federal subject matter experts, AHRQ drafts and releases beta versions of the Common Formats for public review and comment.

Through a contract with AHRQ, the NQF solicits feedback on the initial and subsequent versions of the Common Formats from private sector organizations and individuals. The NQF, a nonprofit organization that focuses on health care quality, then convenes an expert panel to review the comments received and provide feedback to AHRQ. Based upon the expert panel's feedback, AHRQ, in conjunction with the PSWG, further revises the Common Formats.

The technical specifications promote standardization of collected patient safety event information by specifying rules for data collection and submission, as well as by providing guidance for how and when to create data elements, their valid values, conditional and go-to logic, and reports. These specifications will ensure that data collected by PSOs and other entities have comparable clinical meaning.

The technical specifications also provide direction to software developers, so that the Common Formats can be implemented electronically, and to PSOs, so that the Common Formats can be submitted electronically to the PSO Privacy Protection Center (PSOPPC) for data de-identification and transmission to the Network of Patient Safety Databases (NPSD).

Common Formats technical specifications consist of the following:

○ Data dictionary—defines data elements and their attributes (data element name, answer values, field length, guide for use, etc.) included in Common Formats;

○ clinical document architecture (CDA) implementation guide—provides instructions for developing a file to transmit the Common Formats Patient Safety data from the PSO to the PSOPPC using the Common Formats;

○ validation rules and errors document—specifies and defines the validation rules that will be applied to the Common Formats data elements submitted to the PSOPPC;

○ Common Formats flow charts—diagrams the valid paths to complete generic and event specific formats (a complete event report);

○ local specifications—provides specifications for processing, linking and reporting on events and details specifications for reports; and

○ metadata registry—includes descriptive facts about information contained in the data dictionary to illustrate how such data corresponds with similar data elements used by other Federal agencies and standards development organizations [*e.g.,* HL—7, International Standards Organization (ISO)].

Agenda, Registration, and Other Information About the Meeting

The 2015 meeting will be an interactive forum designed to allow meeting participants not only to provide input but also to respond to the input provided by others. The meeting agenda will include: An overview of Federal efforts related to the Common Formats; presentations and discussion of implementation of Common Formats Event Reporting—Hospital Versions 1.1 and 1.2; and, a review of data submission both by PSOs and by vendors on behalf of PSOs.

AHRQ requests that interested persons send an email to the PSOPPC at *support@psoppc.ORG* for registration information. The meeting space will accommodate approximately 150 participants. Before the meeting, a detailed agenda and logistical information will be provided to registrants. Prior to the meeting, AHRQ invites review of the technical specifications for Common Formats which can be accessed through AHRQ's PSO Web site at *http://www.pso.AHRQ.GOV/formats/commonfmt.htm.*

Dated: February 3, 2015.

Richard Kronick,

Director.

[FR Doc. 2015–02590 Filed 2–10–15; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Opportunity To Collaborate in the Evaluation of Simplified Nucleic Acid Tests for Detecting and Quantifying HIV

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (DHHS).

ACTION: General notice.

SUMMARY: The Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS) announces an opportunity for industry and the public to collaborate on a project to evaluate simplified nucleic acid tests. HHS/CDC is interested in evaluating simplified nucleic acid tests that (1) can be used near a patient with rapid turn-around of results (2) can be used to aid in the diagnosis of HIV–1 infection, and (3) have the potential to be used in moderately complex and/or waived laboratories as defined under the Clinical Laboratory Improvement Amendment (CLIA) regulations. Tests of interest include those that use whole blood, serum, plasma, or dried blood spots. Performance will be evaluated relative to HHS/Food and Drug Administration (FDA)-approved qualitative and quantitative nucleic acid tests as well as antibody immunoassays. More than one collaborator may be selected.

DATES: Formal proposals must be received on or before April 13, 2015.

ADDRESSES: Formal proposals should be submitted to Division of HIV/AIDS Prevention, National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention, Centers for Disease Control and Prevention, 1600 Clifton Road NE., Mailstop E–46, Atlanta, Georgia 30329, Attn: Simplified Nucleic Acid Tests Evaluation Project. If you are interested in submitting a proposal, please send a letter of interest to Dr. Michele Owen at *smo2@cdc.gov* by March 13, 2015. The letter of interest is not considered a formal proposal and is not required; however, it is highly recommended, as it will assist CDC in planning for the review process. The formal proposal will still need to be submitted according to the instructions in this notice.

FOR FURTHER INFORMATION CONTACT: Questions on the project should be addressed to: Laura Wesolowski, National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention, Centers for Disease Control and

Prevention, 1600 Clifton Road NE., Mailstop E–46, Atlanta, GA 30329, telephone: (404) 639–6007, email: *lig7@cdc.gov.*

Scientific questions should be addressed to Michele Owen, National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention, Centers for Disease Control and Prevention, 1600 Clifton Road NE., Mailstop A–25, Atlanta, GA 30329; Phone 404–639–1046, email *smo2@cdc.gov.*

SUPPLEMENTARY INFORMATION: HHS/CDC seeks to collaborate with one or more companies that have developed a simplified nucleic acid test that can detect acute or established HIV–1 infection. Acute HIV infection is the early infection period associated with high viral load that occurs before the development of HIV antibodies, and established infection is that which occurs once antibodies are detectable.

The objective of the collaboration is timely collection of data to evaluate the performance characteristics of simplified nucleic acid tests when used in their intended applications. The evaluation will be conducted in phases. The first round of evaluation will be done on well characterized stored or mock laboratory specimens. Following the initial round of evaluation, a subset of tests with high performance will be evaluated with prospectively collected specimens. Only tests that are near production (*i.e.,* not first generation prototypes) will be eligible for the collaboration. Companies that are interested in collaborating must be planning to produce a simplified nucleic acid test for distribution in the United States and to seek FDA approval for diagnostic or prognostic use (priority given to tests with both applications). Confidential proposals, preferably six pages or less (excluding appendices), are solicited from companies which have a product that is suitable for commercial distribution. This collaboration will have an expected duration of 1 to 6 years.

Currently, nucleic acid testing conducted as part of HHS/CDC's laboratory algorithm is associated with a delay in returning results because testing is often conducted in referral laboratories. Likewise, pooled nucleic acid testing causes delays due to the time required to create and break down pools in the event of a positive pool. Rapid identification of acute and established HIV–1 infection using a simplified nucleic acid test may have a significant impact on patients with positive test results obtaining care and services more quickly. Therapeutic monitoring could also be conducted more efficiently using a simplified nucleic acid test.

For this project, preference may be given to manufacturers that have produced rapid nucleic acid tests that can aid in HIV–1 diagnosis, and be used for monitoring responses to therapy. Tests should be simple to use on unprocessed specimens (*e.g.,* whole blood) or include specimen processing in the design of the test. Preference will also be given for tests that can be performed in 60 minutes or less, that have the potential to be designated moderately complex or waived under the Clinical Laboratory Improvement Amendments (CLIA), and that are capable of both qualitative and quantitative applications.

HHS/CDC and Collaborator Responsibilities

HHS/CDC's role may include, but will not be limited to, the following:

(1) Providing scientific and technical expertise needed for the research project;

(2) Providing appropriate panels of specimens, and conducting the tests;

(3) Planning and conducting research studies of the diagnostic tests and interpreting results; and

(4) Publishing research results.

HHS/CDC anticipates that the role of the successful collaborator(s) will include the following:

(1) Providing tests and finalized protocols that can be used in the evaluation; and

(2) Providing the CDC Division of HIV/AIDS Prevention access to necessary data about the diagnostic tests in support of the research activities.

Selection Criteria

Proposals submitted for consideration should address, as fully as possible and to the extent relevant to the proposal, each of the following:

(1) Data available on the performance of the test in persons with acute and established HIV–1 infection.

(2) Information on the technology used for the test and its basic operating principals for detecting HIV RNA and/or DNA.

(3) Information on:

a. the time required to perform the test;

b. whether the test is performed on whole blood, serum, plasma, or dried blood spots; and

c. the steps involved in performing the test on each specimen type;

(4) Information on the storage requirements and stability of the test.

(5) Plans and capability of the company to seek HHS/FDA approval and whether the company intends to seek a diagnostic claim, a prognostic claim (for patient monitoring) or both.

(6) Plans the company has for seeking CLIA waiver status, if FDA approved.

Dated: February 6, 2015.

Ron A. Otten,

Acting Deputy Associate Director for Science, Centers for Disease Control and Prevention.

[FR Doc. 2015–02793 Filed 2–10–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–10433]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by April 13, 2015.

ADDRESSES: When commenting, please reference the document identifier or OMB control number (OCN). To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or

Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number _____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: Reports Clearance Office at (410) 786–1326.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–10433 Initial Plan Data Collection To Support Qualified Health Plan (QHP) Certification and Other Financial Management and Exchange Operations

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Initial Plan Data Collection to Support Qualified Health Plan (QHP) Certification and Other Financial Management and Exchange Operations; *Use:* As required by the CMS–9989–F, Patient Protection and Affordable Care Act; Establishment of Exchanges and Qualified Health Plans; Exchange Standards for Employers (77 FR 18310) (Exchange Establishment Rule), each Exchange must assume responsibilities related to the certification and offering of Qualified Health Plans (QHPs). In addition to data collection for the certification of QHPs, the reinsurance and risk adjustment programs outlined by the Affordable Care Act, detailed in 45 CFR part 153, as established by CMS–9975–F, Patient Protection and Affordable Care Act; Standards for Reinsurance, Risk Corridors, and Risk Adjustment (77 FR 17220), have general information reporting requirements that apply to issuers, group health plans, third party administrators, and plan offerings outside of the Exchanges. Subsequent regulations for these programs including the final HHS Notice of Benefit and Payment Parameters for 2014 and the Program Integrity: Exchange, Premium Stabilization Programs, and Market Standards; Amendments to the HHS Notice of Benefit and Payment Parameters for 2014, and the final HHS Notice of Benefit and Payment Parameters for 2015 provide further reporting requirements. *Form Number:* CMS–10433 (OMB control number 0938–1187); *Frequency:* Once; *Affected Public:* Individuals and households, private sector—business or other for-profits and not-for-profit institutions, State, Local or Tribal Governments; *Number of Respondents:* 900; *Total Annual Responses:* 900; *Total Annual Hours:* 150. (For policy questions regarding this collection contact Jaya Ghildiyal at 301–492–5149.)

Dated: February 6, 2015.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2015–02852 Filed 2–10–15; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Tribal Consultation Meeting

AGENCY: Office of Head Start (OHS), Administration for Children and Families, HHS.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Improving Head Start for School Readiness Act of 2007, Public Law 110–134, notice is hereby given of one 1-day Tribal Consultation Session to be held between the Department of Health and Human Services, Administration for Children and Families, Office of Head Start leadership and the leadership of Tribal Governments operating Head Start (including Early Head Start) programs. The purpose of this Consultation Session is to discuss ways to better meet the needs of American Indian and Alaska Native children and their families, taking into consideration funding allocations, distribution formulas, and other issues affecting the delivery of Head Start services in their geographic locations [42 U.S.C. 9835, Section 640(l)(4)].

DATES: March 16, 2015, from 1:00 p.m. to 5:00 p.m.

Location: Southwest Consortium of Indian Head Start, Native American Child and Family Conference, Hotel Albuquerque at Old Town, 800 Rio Grande Boulevard Northwest, Albuquerque, New Mexico 87104.

FOR FURTHER INFORMATION CONTACT: Robert Bialas, Regional Program Manager, Region XI, Office of Head Start, email *Robert.Bialas@acf.hhs.gov* or phone (202) 205–9497. Additional information and online meeting registration is available at *http://eclkc.ohs.acf.hhs.gov/hslc/hs/calendar/tc2015.*

SUPPLEMENTARY INFORMATION: The Department of Health and Human Services (HHS) announces an Office of Head Start (OHS) Tribal Consultation for leaders of Tribal Governments operating Head Start and Early Head Start programs.

The agenda for the scheduled OHS Tribal Consultation in Albuquerque, New Mexico, will be organized around the statutory purposes of Head Start Tribal Consultations related to meeting the needs of American Indian/Alaska Native children and families, taking into consideration funding allocations, distribution formulas, and other issues affecting the delivery of Head Start services in their geographic locations. In

addition, OHS will share actions taken and in progress to address the issues and concerns raised in 2014 OHS Tribal Consultations.

The Consultation Session will be conducted with elected or appointed leaders of Tribal Governments and their designated representatives [42 U.S.C. 9835, Section 640(l)(4)(A)]. Designees must have a letter from the Tribal Government authorizing them to represent the tribe prior to the Consultation Session. Other representatives of tribal organizations and Native nonprofit organizations are welcome to attend as observers.

A detailed report of the Consultation Session will be prepared and made available within 45 days of the Consultation Session to all Tribal Governments receiving funds for Head Start and Early Head Start programs. Tribes wishing to submit written testimony for the report should send testimony to Robert Bialas at *Robert.Bialas@acf.hhs.gov* either prior to the Consultation Session or within 30 days after the meeting.

Oral testimony and comments from the Consultation Session will be summarized in each report without attribution, along with topics of concern and recommendations. OHS has sent hotel and logistical information for the New Mexico Consultation Session to tribal leaders via email and posted information on the Early Childhood Learning and Knowledge Center Web site at *http://eclkc.ohs.acf.hhs.gov/hslc/hs/calendar/tc2015*.

Dated: February 6, 2015.

Linda K. Smith,

Deputy Assistant Secretary, Early Childhood Development.

[FR Doc. 2015–02859 Filed 2–10–15; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–1031]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Food and Drug Administration Recall Regulations

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by March 13, 2015.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0249. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

FDA Recall Regulation—21 CFR Part 7 (OMB Control Number 0910–0249)—Extension

Section 701 of the Federal Food, Drug, and Cosmetic Act charges the Secretary of Health and Human Services, through FDA, with the responsibility of assuring recalls (21 U.S.C. 371, Regulations and Hearings, and 21 CFR part 7, Enforcement Policy, Subpart C, Recalls (Including Product Corrections)—Guidance on Policy, Procedures, and Industry Responsibilities) which pertain to the recall regulations and provide guidance to manufacturers on recall responsibilities. The guidelines apply to all FDA-regulated products (*i.e.,* food, including animal feed; drugs, including animal drugs; medical devices, including in vitro diagnostic products; cosmetics; biological products intended for human use; and tobacco).

These responsibilities include providing FDA with complete details of the recall including reason(s) for the removal or correction, risk evaluation, quantity produced, distribution information, the firm's recall strategy, a copy of any recall communication(s), and a contact official (§ 7.46 (21 CFR 7.46)); notifying direct accounts of the recall, providing guidance regarding further distribution, giving instructions as to what to do with the product, providing recipients with a ready means of reporting to the recalling firm (§ 7.49); and submitting periodic status reports so that FDA may assess the progress of the recall. Status report information may be determined by, among other things, evaluation return reply cards, effectiveness checks and product returns (§ 7.53); and providing the opportunity for a firm to request in writing that FDA terminate the recall (§ 7.55(b)).

A search of FDA's database was performed to determine the number of recalls that took place during fiscal years 2011 to 2013. The resulting number of total recalls (11,403) from this database search were then averaged over the 3 years, and the resulting per year average of recalls (3,801) are used in estimating the current annual reporting burden for this report. The resulting number of total terminations (11,403) from this database search were then averaged over the 3 years, and the resulting per year average of terminations (3,801) are used in estimating the current annual reporting burden for this report.

In the **Federal Register** of August 4, 2014 (79 FR 45197), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

FDA estimates the total annual industry burden to collect and provide the previous information to be 721,886 burden hours.

The following is a summary of the estimated annual burden hours for recalling firms (manufacturers, processors, and distributors) to comply with the voluntary reporting requirements of FDA's recall regulations, recognizing that there may be a vast difference in the information collection and reporting time involved in different recalls of FDA's regulated products.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Recall	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Firm Initiated Recall (21 CFR 7.46) and Recall Communications (21 CFR 7.49)	3,801	1	3,801	25	95,025
Recall Status Reports (21 CFR 7.53)	3,801	13	49,413	10	494,130
Termination of a Recall (21 CFR 7.55(b))	3,801	1	3,801	10	38,010
Total					627,165

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

I. Total Annual Reporting

A. Firm Initiated Recall and Recall Communications

Request firms voluntarily remove or correct foods and drugs (human or animal), cosmetics, medical devices, biologics, and tobacco to immediately notify the appropriate FDA District Office of such actions. The firm is to provide complete details of the recall reason, risk evaluation, quantity produced, distribution information, firms' recall strategy and a contact official as well as requires firms to notify their direct accounts of the recall and to provide recipients with a ready means of reporting to the recalling firm. Under these portions of the collection of information, the Agency estimates it will receive 3,801 responses annually based on the average number of recalls over the last 3 fiscal years. The number of responses multiplied by the number of respondents equal 3,801. The average burden hours of 25 multiplied by the total number of annual responses equal 95,025. The average burden hour person response was 30 and has decreased by 5.

B. Recall Status Reports

Request that recalling firms provide periodic status reports so FDA can ascertain the progress of the recall. This request only applies to firms with active recalls, and is estimated to be reported every 2 to 4 weeks. This collection of information will generate approximately 3,801 responses annually, based on the average number of recalls over the last 3 fiscal years (11,403). The number of respondents multiplied by the number of responses per respondents (13) equal a total number of annual responses of 49,413. The total number of responses 49,413 with an average burden hours of 10 per response equal a total of 494,130 total hours.

C. Termination of a Recall

Provide the firms an opportunity to request in writing that FDA end the recall. The Agency estimates it will receive 3,801 responses annually based on the average number of terminations over the past 3 fiscal years. The total annual responses of 3,801 multiplied by the average burden hours of 10 per response equal a total number of hours of 38,010.

II. Total Annual Third-Party Disclosure Burden

Recall Communications. Request firms to notify their consignees of the recall and to provide recipients with a ready means of reporting to the recalling firm. Under this portion of the collection of information, the Agency estimates firms will provide 1,691,445 notifications annually based on the number of respondents/consignees (3,807) multiplied by the number of disclosures per respondent (445). The total number of hours is 94,721 (based on 1,691,445 multiplied by 0.056 hours).

TABLE 2—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN

21 CFR Part	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
Recall Communications (21 CFR 7.49)	3,801	445	1,691,445	0.056 (3 minutes)	94,721

FDA regulates many different types of products including, but not limited to, medical products, food and feed, cosmetics, and tobacco products. FDA notes that not all third-party disclosures provided by firms to their consignees are similar in nature and may entail different methods and mediums of communication. FDA estimates the burden for third-party disclosure per recall event to be an average of 25 hours. This burden estimate factored out to the average number of consignees per recall (445) results in a burden per disclosure estimate of approximate hours (25 hours per recall/445 disclosures/recall = 0.056 hours).

Dated: February 5, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–02788 Filed 2–10–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0403]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Substantiation for Dietary Supplement Claims Made Under the Federal Food, Drug, and Cosmetic Act

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by March 13, 2015.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0626. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Road; COLE–14526, Silver Spring, MD 20993–0002 *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Substantiation for Dietary Supplement Claims Made Under the Federal Food, Drug, and Cosmetic Act—21 U.S.C. 343(r)(6) (OMB Control Number 0910–0626)—Extension

Section 403(r)(6) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 343(r)(6)) requires that a manufacturer of a dietary supplement making a nutritional deficiency, structure/function, or general well-being claim have substantiation that the claim is truthful and not misleading. Under section 403(r)(6)(A) of the FD&C Act, such a statement is one that ''claims a benefit related to a classical nutrient deficiency disease and discloses the prevalence of such disease in the United States, describes the role of a nutrient or dietary ingredient intended to affect the structure or function in humans, characterizes the documented mechanism by which a nutrient or dietary ingredient acts to maintain such structure or function, or describes general well-being from consumption for a nutrient or dietary ingredient.''

The guidance document, entitled ''Substantiation for Dietary Supplement Claims Made Under Section 403(r)(6) of the Federal Food, Drug, and Cosmetic Act,'' provides our recommendations to manufacturers about the amount, type, and quality of evidence they should have to substantiate a claim under section 403(r)(6) of the FD&C Act. The guidance does not discuss the types of claims that can be made concerning the effect of a dietary supplement on the structure or function of the body, nor does it discuss criteria to determine when a statement about a dietary supplement is a disease claim. The guidance document is intended to assist manufacturers in their efforts to comply with section 403(r)(6) of the FD&C Act. Persons with access to the Internet may obtain the guidance at *http://www.fda.gov/FoodGuidances.*

Dietary supplement manufacturers collect the necessary substantiating information for their product as required by section 403(r)(6) of the FD&C Act. The guidance provides information to manufacturers to assist them in doing so. The recommendations contained in the guidance are voluntary. Dietary supplement manufacturers will only need to collect information to substantiate their product's nutritional deficiency, structure/function, or general well-being claim if they choose to place a claim on their product's label.

The standard discussed in the guidance for substantiation of a claim on the labeling of a dietary supplement is consistent with standards set by the Federal Trade Commission for dietary supplements and other health-related products that the claim be based on competent and reliable scientific evidence. This evidence standard is broad enough that some dietary supplement manufacturers may only need to collect peer-reviewed scientific journal articles to substantiate their claims; other dietary supplement manufacturers whose products have properties that are less well documented may have to conduct studies to build a body of evidence to support their claims. It is unlikely that a dietary supplement manufacturer will attempt to make a claim when the cost of obtaining the evidence to support the claim outweighs the benefits of having the claim on the product's label. It is likely that manufacturers will seek substantiation for their claims in the scientific literature.

The time it takes to assemble the necessary scientific information to support their claims depends on the product and the claimed benefits. If the product is one of several on the market making a particular claim for which there is adequate publicly available and widely established evidence supporting the claim, then the time to gather supporting data will be minimal; if the product is the first of its kind to make a particular claim or the evidence supporting the claim is less publicly available or not widely established, then gathering the appropriate scientific evidence to substantiate the claim will be more time consuming.

In the **Federal Register** of November 4, 2014 (79 FR 65409), FDA published a 60-day notice requesting public comment on the proposed collection of information. Five comments were received. One comment agreed with the Agency's burden estimate while the remaining comments were not responsive to four information collection topics solicited in the notice and are therefore not discussed in this document.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

Claim type	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
Widely known, established	667	1	667	44	29,348
Pre-existing, not widely established	667	1	667	120	80,040
Novel	667	1	667	120	80,040
Total					189,428

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

We assume that it will take 44 hours to assemble information needed to substantiate a claim on a particular dietary supplement when the claim is widely known and established. We believe it will take closer to 120 hours

to assemble supporting scientific information when the claim is novel or when the claim is pre-existing but the scientific underpinnings of the claim are not widely established. These are claims that may be based on emerging science, where conducting literature searches and understanding the literature takes time. It is also possible that references for claims made for some dietary ingredients or dietary supplements may primarily be found in foreign journals and in foreign languages or in the older, classical literature where it is not available on computerized literature databases or in the major scientific reference databases, such as the National Library of Medicine's literature database, all of which increases the time of obtaining substantiation.

In the **Federal Register** of January 6, 2000 (65 FR 1000), we published a final rule on statements made for dietary supplements concerning the effect of the product on the structure or function of the body. In that final rule, we estimated that there were 29,000 dietary supplement products marketed in the United States (65 FR 1000 at 1045). Assuming that the flow of new products is 10 percent per year, then 2,900 new dietary supplement products will come on the market each year. The structure/function final rule estimated that about 69 percent of dietary supplements have a claim on their labels, most probably a structure/function claim (65 FR 1000 at 1046). Therefore, we assume that supplement manufacturers will need time to assemble the evidence to substantiate each of the 2,001 claims (2,900 × 69 percent) made each year. If we assume that the 2,001 claims are equally likely to be pre-existing widely established claims, novel claims, or pre-existing claims that are not widely established, then we can expect 667 of each of these types of claims to be substantiated per year. Table 1 of this document shows that the annual burden hours associated with assembling evidence for claims is 189,428 (the sum of 667 × 44 hours, 667 × 120 hours, and 667 × 120 hours).

Dated: February 5, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–02787 Filed 2–10–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–D–0630]

Safety Considerations To Mitigate the Risks of Misconnections With Small-Bore Connectors Intended for Enteral Applications; Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the guidance entitled ''Safety Considerations to Mitigate the Risks of Misconnections with Small-Bore Connectors Intended for Enteral Applications.'' The use of common connector designs, such as Luer connectors, has led to unintended connections between devices that have different intended uses and has resulted in serious and sometimes fatal consequences to patients. This guidance provides recommendations to manufacturers regarding the expectations for design and testing of small-bore connectors intended for enteral applications (''enteral devices''). FDA is making these recommendations to reduce the risk of unintended connections between enteral and non-enteral devices.

DATES: Submit either electronic or written comments on this guidance at any time. General comments on Agency guidance documents are welcome at any time.

ADDRESSES: An electronic copy of the guidance document is available for download from the Internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the guidance document entitled ''Safety Considerations to Mitigate the Risks of Misconnections with Small-Bore Connectors Intended for Enteral Applications'' to the Office of the Center Director, Guidance and Policy Development, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

Submit electronic comments on the guidance to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. Identify comments with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Priya Venkataraman-Rao, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. G222, Silver Spring, MD 20993–0002, 301–796–6243.

SUPPLEMENTARY INFORMATION:

I. Background

Numerous publications regarding patient injury and death from tubing and catheter misconnections indicate that reports of misconnections have increased in frequency over the past several years. On July 9, 2010, FDA issued a letter to healthcare professionals, hospital purchasing departments, and manufacturers of enteral feeding tubes regarding Luer lock misconnections (Ref. 1). FDA advised manufacturers to assess the risks of misconnections for their devices and provide proposed solutions with validation for premarket review. At that time, some manufacturers were using color-coding and labeling to reduce the risk of misconnections; others were creating proprietary connectors designed to be incompatible with devices for non-enteral applications (''non-enteral devices''). However, recent reports of adverse events have demonstrated that reliance on color-coding and tagging of enteral devices alone cannot adequately mitigate the risk of misconnections, especially with similarly color-coded intravenous PICC (percutaneously inserted central catheter) lines with Luer connectors.

This guidance provides updated recommendations to manufacturers of small-bore connectors intended for enteral applications. The guidance recommends that manufacturers: (1) Design and test enteral connectors based upon Association for the Advancement of Medical Instrumentation (AAMI)/CN3:2014 (PS), ''Small-bore connectors for liquids and gases in healthcare applications—Part 3: Connectors for enteral applications'' and AAMI/CN20:2014 (PS), ''Small-bore connectors for liquids and gases in healthcare applications—Part 20: Common test methods''; (2) for connectors that do not meet AAMI/CN3:2014 (PS), design and test connectors based upon the AAMI/American National Standards Institute (ANSI)/International Organization for Standardization (ISO) 80369–1 standard ''Small-bore connectors for liquids and gases in healthcare applications—Part 1:

General requirements''; (3) no longer rely solely on color-coding, labeling, and tagging to prevent misconnections; and (4) perform and document risk assessments to demonstrate that the proposed design and testing have effectively mitigated the risk of the enteral connector misconnecting to non-enteral devices.

Elsewhere in this issue of the **Federal Register**, we are announcing a publication containing modifications to the list of standards that FDA recognizes for use in premarket reviews (''FDA Recognized Consensus Standards''). Specifically, this publication announces the addition of a list of recognized standards that are relevant to safety considerations to mitigate the risks of misconnections with small-bore connectors intended for enteral applications. This publication, entitled ''Modifications to the List of Recognized Standards, Recognition List Number: 039'' (''Recognition List Number: 039''), will assist manufacturers who elect to declare conformity with consensus standards to meet certain requirements for medical devices, specifically small-bore connectors for enteral applications.

In the **Federal Register** of July 27, 2012 (77 FR 44256), FDA announced the availability of the draft guidance document. We invited interested persons to comment by October 25, 2012. Seven sets of comments were received and offered strong support for the finalization of this guidance as part of a continued effort to reduce the likelihood of incidents involving unintended connections between connectors with different intended uses. Multiple comments also applauded FDA for collaborating with the standards organizations to address this issue.

The comments also noted the potential drawbacks of aligning the recommended testing with the current version of the AAMI/ANSI/ISO 80369–1 standard. Its methodologies, particularly those in Annex B, seek to demonstrate that each proposed enteral connector is physically incompatible with non-enteral devices. However, ISO is proposing substantial changes for future versions that could affect the recommended testing. FDA acknowledges this potential drawback; however, the current version of 80369–1 was the available reference at the time. As noted above, additional consensus standards relating to the design and testing of small-bore connectors intended for enteral applications have been published and recognized. Therefore, the guidance has been modified accordingly to reference and align with these recognized standards.

Multiple comments also suggested that the description of included and excluded devices be modified and clarified, and gave examples for consideration. The guidance has been modified accordingly. Several comments requested language and definition changes to provide more clarity and consistency with the published standard, which FDA has considered and incorporated as appropriate. Lastly, due primarily to space considerations on the label affixed to a device, multiple comments expressed concern regarding FDA's recommendation to eliminate the use of shortened terms such as ''enteral-only'' or ''non-IV'' in favor of more descriptive labeling. FDA has considered these comments and recommends that the device's instructions for use, as opposed to its affixed label, fully describe the subject connector's interconnectability. The instructions for use will afford adequate space for the recommended longer phrases describing the devices to which the subject connector can and cannot connect. However, for connectors for which non-interconnectability has been demonstrated, the product design could also incorporate color-coding, labeling, and tagging or imprinting on the connector.

II. Significance of Guidance

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the Agency's current thinking on mitigating the risks of misconnections with small-bore connectors intended for enteral applications. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute and regulations.

III. Electronic Access

Persons interested in obtaining a copy of the guidance may do so by downloading an electronic copy from the Internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm.* Guidance documents are also available at *http://www.regulations.gov.* Persons unable to download an electronic copy of ''Safety Considerations to Mitigate the Risks of Misconnections with Small-Bore Connectors Intended for Enteral Applications'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number 1784 to identify the guidance you are requesting.

IV. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (the PRA) (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 820 have been approved under OMB control number 0910–0073; the collections of information in 21 CFR part 812 have been approved under OMB control number 0910–0078; the collections of information in 21 CFR part 807, subpart E have been approved under OMB control number 0910–0120; the collections of information in 21 CFR 56.115 have been approved under OMB control number 0910–0130; the collections of information found in 21 CFR part 814 have been approved under OMB control number 0910–0231; the collections of information in 21 CFR part 803 have been approved under OMB control number 0910–0437; and the collections of information in 21 CFR part 801 have been approved under OMB control number 0910–0485.

The labeling provisions of this guidance are not subject to review by OMB because they do not constitute a ''collection of information'' under the PRA. Rather, the recommended enteral connector labeling is a public disclosure of information originally supplied by the Federal Government to the recipient for the purpose of disclosure to the public (see 5 CFR 1320.3(c)(2)).

V. Comments

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

VI. References

The following reference has been placed on display in the Division of Dockets Management (see **ADDRESSES**) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday, and is available

electronically at *http://www.regulations.gov.* (FDA has verified the Web site addresses in this reference section, but FDA is not responsible for any subsequent changes to the Web sites after this document publishes in the **Federal Register**.)

1. FDA Center for Devices and Radiological Health, Letters to Industry Page, ''Letter to Manufacturers of Enteral Feeding Tubes,'' (*http://www.fda.gov/downloads/MedicalDevices/ResourcesforYou/Industry/UCM218631.pdf*).

Dated: February 5, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–02802 Filed 2–10–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–D–0288]

Premarket Studies of Implantable Minimally Invasive Glaucoma Surgical Devices; Draft Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the draft guidance entitled ''Premarket Studies of Implantable Minimally Invasive Glaucoma Surgical (MIGS) Devices.'' This leap frog guidance document was developed to notify manufacturers of the recommended non-clinical and clinical studies to support a premarket approval application (PMA) for implantable MIGS devices. This draft guidance is not final nor is it in effect at this time.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment of this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by May 12, 2015.

ADDRESSES: An electronic copy of the guidance document is available for download from the Internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the draft guidance document entitled ''Premarket Studies of Implantable Minimally Invasive Glaucoma Surgical (MIGS) Devices'' to the Office of the Center Director, Guidance and Policy Development, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

Submit electronic comments on the draft guidance to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. Identify comments with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Michelle Tarver, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave. Bldg. 66, Rm. 2504, Silver Spring, MD 20993–0002, 301–796–5620.

SUPPLEMENTARY INFORMATION:

I. Background

When finalized, this draft guidance document will recommend non-clinical and clinical studies to support a PMA for implantable MIGS devices. Glaucoma is a progressive condition that damages the optic nerve of the eye, is associated with elevated intraocular pressure, and leads to irreversible vision loss. It is the second leading cause of visual disability and blindness in the world, with 1 in 40 adults over 40 years of age suffering from glaucoma having some visual loss. Current surgical treatments are aimed at reducing intraocular pressure (IOP) and often reserved for moderate to severe disease. During the past decade, novel medical devices, called MIGS devices, have emerged. These devices are designed to treat less severe glaucoma by enhancing physiological aqueous outflow with an approach that causes minimal ocular trauma.

This draft guidance is a leap-frog guidance; leap frog guidances are intended to serve as a mechanism by which the Agency can share initial thoughts regarding the content of premarket submissions for emerging technologies and new clinical applications that are likely to be of public health importance very early in product development, generally before FDA has even received any such submissions. This leap-frog guidance represents the Agency's initial thinking and our recommendations may change as more information becomes available. The Agency strongly encourages manufacturers to engage with the Center for Devices and Radiological Health (CDRH) through the Pre-Submission process to obtain more detailed feedback for implantable MIGS devices. For more information on Pre-Submissions, please see ''Requests for Feedback on Medical Device Submissions: The Pre-Submission Program and Meetings with Food and Drug Administration Staff'' (*http://www.fda.gov/downloads/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/UCM311176.pdf*).

II. Significance of Guidance

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the Agency's current thinking on implantable MIGS devices. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute and regulations.

III. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so by downloading an electronic copy from the Internet. A search capability for all CDRH guidance documents is available at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm.* Guidance documents are also available at *http://www.regulations.gov.* Persons unable to download an electronic copy of ''Premarket Studies of Implantable Minimally Invasive Glaucoma Surgical (MIGS) Devices'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number 1400049 to identify the guidance you are requesting.

IV. Paperwork Reduction Act of 1995

The guidance document ''Premarket Studies of Implantable Minimally Invasive Glaucoma Surgical (MIGS) Devices'' refers to previously approved information collections found in FDA regulations and guidance. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 814, subparts B and E are approved under OMB control number 0910–0231 and the collections of information in the guidance document entitled ''Requests for Feedback on Medical Device Submissions: The Pre-Submission Program and Meetings with

Food and Drug Administration Staff'' are approved under OMB control number 0910–0756.

V. Comments

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

Dated: February 5, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–02722 Filed 2–10–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. FDA–2014–M–0867, FDA–2014–M–0874, FDA–2014–M–0875, FDA–2014–M–1060, FDA–2014–M–1064, FDA–2014–M–1113, FDA–2014–M–1114, FDA–2014–M–1193, FDA–2014–M–1265, FDA–2014–M–1279, and FDA–2014–M–1280]

Medical Devices; Availability of Safety and Effectiveness Summaries for Premarket Approval Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing a list of premarket approval applications (PMAs) that have been approved. This list is intended to inform the public of the availability of safety and effectiveness summaries of approved PMAs through the Internet and the Agency's Division of Dockets Management.

ADDRESSES: Submit written requests for copies of summaries of safety and effectiveness data to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. Please cite the appropriate docket number as listed in table 1 when submitting a written request. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the summaries of safety and effectiveness.

FOR FURTHER INFORMATION CONTACT: Nicole Wolanski, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1650, Silver Spring, MD 20993–0002, 301–796–6570.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with sections 515(d)(4) and (e)(2) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 360e(d)(4) and (e)(2)), notification of an order approving, denying, or withdrawing approval of a PMA will continue to include a notice of opportunity to request review of the order under section 515(g) of the FD&C Act. The 30-day period for requesting reconsideration of an FDA action under § 10.33(b) (21 CFR 10.33(b)) for notices announcing approval of a PMA begins on the day the notice is placed on the Internet. Section 10.33(b) provides that FDA may, for good cause, extend this 30-day period. Reconsideration of a denial or withdrawal of approval of a PMA may be sought only by the applicant; in these cases, the 30-day period will begin when the applicant is notified by FDA in writing of its decision.

The regulations provide that FDA publish a quarterly list of available safety and effectiveness summaries of PMA approvals and denials that were announced during that quarter. The following is a list of approved PMAs for which summaries of safety and effectiveness were placed on the Internet from July 1, 2014, through September 30, 2014. There were no denial actions during this period. The list provides the manufacturer's name, the product's generic name or the trade name, and the approval date.

TABLE 1—LIST OF SAFETY AND EFFECTIVENESS SUMMARIES FOR APPROVED PMAS MADE AVAILABLE FROM JULY 1, 2014, THROUGH SEPTEMBER 30, 2014

PMA No., Docket No.	Applicant	Trade name	Approval date
P130021/S002, FDA–2014–M–0867	Medtronic CoreValve LLC	Medtronic CoreValve™ System (MCS)	June 12, 2014.
P130009, FDA–2014–M–0874	Edwards Lifesciences, LLC	Edwards SAPIEN XT™ Transcatheter Heart Valve and Accessories.	June 16, 2014.
P130029, FDA–2014–M–0875	Bard Peripheral Vascular, Inc	Fluency® Plus Endovascular Stent Graft.	June 17, 2014.
P130011, FDA–2014–M–1064	Sorin Group Canada, Inc	Freedom SOLO Stentless Heart Valve and SOLO Smart Heart Valve.	June 24, 2014.
P130030, FDA–2014–M–1060	Boston Scientific Corp	REBEL™ Platinum Chromium Coronary Stent System (Monorail™ and Over-The-Wire).	June 27, 2014.
P090029, FDA–2014–M–1113	Medtronic Sofamor Danek USA, Inc	Prestige® LP Cervical Disc	July 24, 2014.
H130005, FDA–2014–M–1114	MicroVention, Inc	Low-Profile Visualized Intraluminal Support Device (LVIS and LVIS Jr.).	July 25, 2014.
P130017, FDA–2014–M–1193	Exact Sciences, Inc	COLOGUARD™	August 11, 2014.
H120003, FDA–2014–M–1265	XVIVO Perfusion, Inc	XVIVO Perfusion System (XPS™) with STEEN Solution™ Perfusate.	August 12, 2014.
H130004, FDA–2014–M–1280	Plexision, Inc	Pleximmune™	August 26, 2014.
P130020, FDA–2014–M–1279	GE Healthcare	SenoClaire	August 26, 2014.

II. Electronic Access

Persons with access to the Internet may obtain the documents at *http://www.fda.gov/MedicalDevices/ProductsandMedicalProcedures/DeviceApprovalsandClearances/PMAApprovals/default.htm.*

Dated: February 5, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–02783 Filed 2–10–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–N–0244]

Patient-Focused Drug Development for Functional Gastrointestinal Disorders; Public Meeting; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meeting; request for comments.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing a public meeting and an opportunity for public comment on Patient-Focused Drug Development for functional gastrointestinal (GI) disorders, including irritable bowel syndrome, gastroparesis, chronic persistent symptomatic gastroesophageal reflux despite standard therapeutic interventions, and chronic idiopathic constipation. Patient-Focused Drug Development is part of FDA's performance commitments made as part of the fifth authorization of the Prescription Drug User Fee Act (PDUFA V). The public meeting is intended to allow FDA to obtain patient perspectives on the impact of functional GI disorders on daily life and patient views on treatment approaches.

DATES: The public meeting will be held on May 11, 2015, from 1 p.m. to 5 p.m. Registration to attend the meeting must be received by May 1, 2015 (see **SUPPLEMENTARY INFORMATION** for instructions). Submit electronic or written comments to the public docket by July 13, 2015.

ADDRESSES: The meeting will be held at the FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993–0002. Participants must enter through Building 1 and undergo security screening. For more information on parking and security procedures, please refer to *http://www.fda.gov/AboutFDA/WorkingatFDA/BuildingsandFacilities/WhiteOakCampusInformation/ucm241740.htm.*

Submit electronic comments to *www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FDA will post the agenda approximately 5 days before the meeting at *http://www.fda.gov/ForIndustry/UserFees/PrescriptionDrugUserFee/ucm430885.htm.*

FOR FURTHER INFORMATION CONTACT: Pegah Mariani, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 1146, Silver Spring, MD 20993–0002, 240–402–4513, FAX: 301–847–8443, *Sayyedeh.Mariani@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on Patient-Focused Drug Development

FDA has selected functional GI disorders as the focus of a public meeting under Patient-Focused Drug Development, an initiative that involves obtaining a better understanding of patient perspectives on the severity of a disease and the available therapies for that condition. Patient-Focused Drug Development is being conducted to fulfill FDA performance commitments that are part of the reauthorization of the PDUFA under Title I of the Food and Drug Administration Safety and Innovation Act (FDASIA) (Pub. L. 112–144). The full set of performance commitments is available at *http://www.fda.gov/downloads/forindustry/userfees/prescriptiondruguserfee/ucm270412.pdf.*

FDA committed to obtain the patient perspective on 20 disease areas during the course of PDUFA V. For each disease area, the Agency will conduct a public meeting to discuss the disease and its impact on patients' daily lives, the types of treatment benefit that matter most to patients, and patients' perspectives on the adequacy of the available therapies. These meetings will include participation of FDA review divisions, the relevant patient communities, and other interested stakeholders.

On April 11, 2013, FDA published a document in the **Federal Register** (78 FR 21613) announcing the disease areas for meetings in fiscal years (FYs) 2013–2015, the first 3 years of the 5-year PDUFA V timeframe. The Agency used several criteria outlined in that document to develop the list of disease areas. FDA obtained public comment on the Agency's proposed criteria and potential disease areas through a public docket and a public meeting that was convened on October 25, 2012. In selecting the set of disease areas, FDA carefully considered the public comments received and the perspectives of review divisions at FDA. FDA has initiated a second public process for determining the disease areas for FY 2016–2017. More information, including the list of disease areas and a general schedule of meetings, is posted at *http://www.fda.gov/ForIndustry/UserFees/PrescriptionDrugUserFee/ucm326192.htm.*

II. Public Meeting Information

A. Purpose and Scope of the Meeting

The purpose of this Patient-Focused Drug Development meeting is to obtain input on the symptoms and other impacts of functional GI disorders, such as irritable bowel syndrome, gastroparesis, chronic persistent symptomatic gastroesophageal reflux despite standard therapeutic interventions, and chronic idiopathic constipation, that matter most to patients, as well as perspectives on current approaches to treating these conditions. Functional GI disorders are common disorders that are characterized by persistent and recurring GI symptoms and occur as a result of abnormal functioning of the GI tract. These disorders are not caused by structural abnormalities, thus routine medical tests may be normal, and diagnosis is based primarily on symptoms. Functional GI disorders can affect any part of the GI tract, including the esophagus, bile duct, and intestines. Treatment for functional GI disorders focuses on management of different symptoms over a period of time. Treatments may include dietary management as well as over-the-counter and prescription medications (*e.g.,* antispasmodics, pro-motility agents, antidiarrheals, and antidepressants). In addition, psychological treatments, such as relaxation therapy or cognitive behavioral therapy, may help manage the symptoms of functional GI disorders.

The questions that will be asked of patients and patient stakeholders at the meeting are listed in this section, organized by topic. For each topic, a brief initial patient panel discussion will begin the dialogue. This will be followed by a facilitated discussion inviting comments from other patient and patient stakeholder participants. In

addition to input generated through this public meeting, FDA is interested in receiving patient input addressing these questions through written comments, which can be submitted to the public docket (see **ADDRESSES**).

Topic 1: Disease Symptoms and Daily Impacts That Matter Most to Patients

- Have you received a diagnosis of a functional GI disorder from a health care provider? If so, please state the condition.
- Of all the symptoms that you experience because of your condition, which one to three symptoms have the most significant impact on your life? (Examples may include pain, bloating, constipation, vomiting)
- Are there specific activities that are important to you but that you cannot do at all or as fully as you would like because of your condition? (Examples of activities may include sleeping through the night, daily hygiene)
  - How do your symptoms and their negative impacts affect your daily life on the best days? On the worst days?
- How has your condition and its symptoms changed over time?
  - Do your symptoms come and go or are they ongoing? If so, do you know of anything that worsens your symptoms?
- What worries you most about your condition?

Topic 2: Patients' Perspectives on Current Approaches To Treating Functional GI Disorders

- What are you currently doing to help treat your condition or its symptoms? (Examples may include prescription medicines, over-the-counter products, and other therapies including nondrug therapies such as diet modification.)
  - What specific symptoms do your treatments address?
  - How has your treatment regimen changed over time, and why?
- How well does your current treatment regimen treat the most significant symptoms of your disease?
  - How well do these treatments stop or slow the progression of your condition?
  - How well do these therapies improve your ability to do specific activities that are important to you in your daily life?
  - How well have these treatments worked for you as your condition has changed over time?
- What are the most significant downsides to your current treatments, and how do they affect your daily life? (Examples of downsides may include bothersome side effects, going to the hospital for treatment, restrictions on driving, etc.)
- Assuming there is no complete cure for your condition, what specific things would you look for in an ideal treatment for your condition?

B. Meeting Attendance and Participation

If you wish to attend this meeting, visit *http://pfddfunctionalgidisorders.eventbrite.com.* Please register by May 1, 2015. If you are unable to attend the meeting in person, you can register to view a live Webcast of the meeting. You will be asked to indicate in your registration if you plan to attend in person or via the Webcast. Seating will be limited, so early registration is recommended. Registration is free and will be on a first-come, first-served basis. However, FDA may limit the number of participants from each organization based on space limitations. Registrants will receive confirmation once they have been accepted. Onsite registration on the day of the meeting will be based on space availability. If you need special accommodations because of a disability, please contact Pegah Mariani (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days before the meeting.

Patients who are interested in presenting comments as part of the initial panel discussions will be asked to indicate in their registration which topic(s) they wish to address. These patients also must send to *PatientFocused@fda.hhs.gov* a brief summary of responses to the topic questions by April 24, 2015. Panelists will be notified of their selection approximately 7 days before the public meeting. We will try to accommodate all patients and patient stakeholders who wish to speak, either through the panel discussion or audience participation; however, the duration of comments may be limited by time constraints.

III. Comments

Regardless of whether you attend the public meeting, you can submit electronic or written responses to the questions pertaining to Topics 1 and 2 to the public docket (see **ADDRESSES**) by July 13, 2015. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

IV. Transcripts

As soon as a transcript is available, FDA will post it at *http://www.fda.gov/ForIndustry/UserFees/PrescriptionDrugUserFee/ucm430885.htm.*

Dated: February 5, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–02804 Filed 2–10–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2004–N–0451]

Food and Drug Administration Modernization Act of 1997: Modifications to the List of Recognized Standards, Recognition List Number: 039

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing a publication containing modifications the Agency is making to the list of standards FDA recognizes for use in premarket reviews (''FDA Recognized Consensus Standards''). Specifically, this publication announces the addition of a list of recognized standards that are relevant to safety considerations to mitigate the risks of misconnections with small-bore connectors intended for enteral applications. This publication, entitled ''Modifications to the List of Recognized Standards, Recognition List Number: 039'' (''Recognition List Number: 039''), will assist manufacturers who elect to declare conformity with consensus standards to meet certain requirements for medical devices.

DATES: Submit either electronic or written comments concerning this document at any time. See section VI for the effective date of the recognition of standards announced in this document.

ADDRESSES: An electronic copy of Recognition List Number: 039 is available on the Internet at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/Standards/ucm123792.htm.* See section V for electronic access to the searchable database for the current list of FDA recognized consensus standards, including Recognition List Number: 039 modifications and other standards related information.

Submit written requests for single copies of the document entitled ''Modifications to the List of Recognized Standards, Recognition List Number: 039'' to the Division of Industry and Consumer Education, Center for Devices and Radiological Health, Food and Drug

Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 4613, Silver Spring, MD 20993–0002. Send two self-addressed adhesive labels to assist that office in processing your request, or fax your request to 301–847–8149.

Submit electronic comments on this document to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. Identify comments with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Scott A. Colburn, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 3632, Silver Spring, MD 20993, 301–796–6287, *standards@cdrh.fda.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Section 204 of the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105–115) amended section 514 of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 360d). Amended section 514 allows FDA to recognize consensus standards developed by international and national organizations for use in satisfying portions of device premarket review submissions or other requirements.

In a notice published in the **Federal Register** of February 25, 1998 (63 FR 9561), FDA announced the availability of a guidance entitled ''Recognition and Use of Consensus Standards.'' The notice described how we would implement our standard recognition program and provided the initial list of recognized standards.

Modifications to the initial list of recognized standards, as published in the **Federal Register**, can be accessed at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/Standards/ucm123792.htm.*

These notices describe the addition, withdrawal, and revision of certain standards recognized by FDA. The Agency maintains HTML and PDF versions of the list of FDA Recognized Consensus Standards. Both versions are publicly accessible at the Agency's Internet site. See section V of this document for electronic access information. Interested persons should review the supplementary information sheet for the standard to understand fully the extent to which FDA recognizes the standard.

II. Listing of New Entries

In table 1 of this document, FDA provides the listing of new entries and consensus standards added as modifications to the list of recognized standards under Recognition List Number: 039. Specifically, this publication announces the addition of a list of recognized standards that are relevant to safety considerations to mitigate the risks of misconnections with small-bore connectors intended for enteral applications. Elsewhere in this issue of the **Federal Register**, we are publishing a notice of availability of the guidance document entitled ''Safety Considerations to Mitigate the Risks of Misconnections With Small-Bore Connectors Intended for Enteral Applications.'' This guidance provides recommendations to manufacturers regarding the expectations for design and testing of small-bore connectors intended for enteral applications (''enteral devices''). FDA is making these recommendations to reduce the risk of unintended connections between enteral and non-enteral devices.

TABLE 1—NEW ENTRIES TO THE LIST OF RECOGNIZED STANDARDS

Recognition No.	Title of standard [1]	Reference No. and date
A. General I (Quality Systems/Risk Management)		
5–93	Small-bore connectors for liquids and gases in healthcare applications—Part 3: Connectors for enteral applications.	AAMI/CN3:2014 (PS).
5–94	Small-bore connectors for liquids and gases in healthcare applications—Part 20: Common test methods.	AAMI/CN20:2014 (PS).

[1] All standard titles in this table conform to the style requirements of the respective organizations.

III. List of Recognized Standards

FDA maintains the Agency's current list of FDA recognized consensus standards in a searchable database that may be accessed directly at FDA's Internet site at *http://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfStandards/search.cfm.* FDA will incorporate the modifications and revisions described in this notice into the database and, upon publication in the **Federal Register**, this recognition of consensus standards will be effective. FDA will announce additional modifications and revisions to the list of recognized consensus standards, as needed, in the **Federal Register** once a year, or more often, if necessary. Beginning with Recognition List 033, FDA no longer announces minor revisions to the list of recognized consensus standards such as technical contact person, devices affected, processes affected, Code of Federal Regulations citations, and product codes.

IV. Recommendation of Standards for Recognition by FDA

Any person may recommend consensus standards as candidates for recognition under section 514 of the FD&C Act by submitting such recommendations, with reasons for the recommendation, to *standards@cdrh.fda.gov.* To be properly considered, such recommendations should contain, at a minimum, the following information: (1) Title of the standard, (2) any reference number and date, (3) name and address of the national or international standards development organization, (4) a proposed list of devices for which a declaration of conformity to this standard should routinely apply, and (5) a brief identification of the testing or performance or other characteristics of the device(s) that would be addressed by a declaration of conformity.

V. Electronic Access

You may obtain a copy of ''Guidance on the Recognition and Use of Consensus Standards'' by using the Internet. The Center for Devices and Radiological Health (CDRH) maintains a site on the Internet for easy access to information including text, graphics, and files that you may download to a personal computer with access to the Internet. Updated on a regular basis, the CDRH home page, *http://www.fda.gov/MedicalDevices,* includes a link to standards-related documents including the guidance and the current list of recognized standards. After publication in the **Federal Register**, this notice announcing ''Modification to the List of

Recognized Standards, Recognition List Number: 039'' will be available *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/Standards/ucm123792.htm.*

You may access ''Guidance on the Recognition and Use of Consensus Standards,'' and the searchable database for ''FDA Recognized Consensus Standards'' at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/Standards.*

VI. Submission of Comments and Effective Date

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.* FDA will consider any comments received in determining whether to amend the current listing of modifications to the list of recognized standards, Recognition List Number: 039. These modifications to the list of recognized standards are effective upon publication of this notice in the **Federal Register**.

Dated: February 5, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–02801 Filed 2–10–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; 60-Day Comment Request; Population Assessment of Tobacco and Health (PATH) Study

SUMMARY: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Institute on Drug Abuse (NIDA), National Institutes of Health (NIH), will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) The quality, utility, and clarity of the information to be collected; and (4) The approaches used to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

To Submit Comments and for Further Information: To obtain a copy of the data collection plans and instruments, submit comments in writing or request more information on the proposed project, contact: Kevin P. Conway, Ph.D., Deputy Director, Division of Epidemiology, Services, and Prevention Research, National Institute on Drug Abuse, 6001 Executive Boulevard, Room 5185; or call non-toll-free number (301)–443–8755; or Email your request, including your address to: *PATHprojectofficer@mail.nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

Comment Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Proposed Collection: Population Assessment of Tobacco and Health (PATH) Study—Third Wave of Data Collection—0925–0664–REVISION—National Institutes of Health (NIH), National Institute on Drug Abuse (NIDA), in partnership with the Food and Drug Administration (FDA).

Need and Use of Information Collection: This is a revision request (OMB 0925–0664, Exp. Date 9/30/2016) for the Population Assessment of Tobacco and Health (PATH) Study to conduct the third wave of data collection. The PATH Study is a large national longitudinal cohort study on tobacco use behavior and health among the U.S. household population of adults age 18 and older and youth ages 12 to 17. The PATH Study conducts annual interviews and collects biospecimens from adults to help inform the development, implementation, and evaluation of tobacco-product regulations by FDA in meeting its mission under the Family Smoking Prevention and Tobacco Control Act (TCA) to regulate tobacco products, including tobacco-product advertising, labeling, marketing, constituents, ingredients, and additives. The longitudinal design of the PATH Study provides it with the capacity to measure and report within-person changes and between-person differences in tobacco product use behaviors and health effects within the cohort over time. These data will help to inform regulatory decisions and actions by FDA and FDA's evaluations of associations between its regulations and tobacco use behaviors and health indicators in the population.

OMB approval is requested for 3 years. There are no capital, operating, or maintenance costs to report. There are no costs to respondents other than their time. The total estimated annualized burden hours are 53,459.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent and instrument	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total annual burden hours
Adults—Adult respondents at Wave 1 or Wave 2—Extended Interview	25,692	1	1	25,692
Adults—Wave 1 youth respondents who age up to adult cohort at Wave 3—Consent for Extended Interview	2,317	1	4/60	154
Adults—Wave 1 youth respondents who age up to adult cohort at Wave 3—Extended Interview	1,738	1	68/60	1,970
Adults—Wave 1 youth respondents who age up to adult cohort at Wave 3—Consent for Biological Samples	1,738	1	5/60	145
Adults—Biospecimen Collection: Urine	13,703	1	10/60	2,284

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondent and instrument	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total annual burden hours
Adults—Biospecimen Collection: Blood	869	1	18/60	261
Adults—Tobacco Use Form	14,572	1	4/60	971
Adults—Follow-up/Tracking Participant Information Form	27,430	2	8/60	7,315
Youth—Youth respondents at Wave 1 or Wave 2—Extended Interview	9,515	1	32/60	5,075
Youth—Shadow youth who age up to youth cohort at Wave 3—Assent for Extended Interview	2,420	1	3/60	121
Youth—Shadow youth who age up to youth cohort at Wave 3—Extended Interview	1,912	1	42/60	1,338
Adult—Youth respondents at Wave 1 or Wave 2—Parent Interview	9,705	1	14/60	2,265
Adults—Parents of Shadow youth who age up to youth cohort at Wave 3—Parent Permission and Consent for Parent Interview	2,420	1	5/60	202
Adults—Parents of Shadow youth who age up to youth cohort at Wave 3—Parent Interview	1,950	1	17/60	553
Adults—Verification Interview	35,564	1	2/60	1,185
Adults—Validation Interview	3,613	1	4/60	241
Adults—Follow-up/Tracking Participant Information Form for Youth (completed by parents)	11,427	2	8/60	3,047
Adults—Follow-up/Tracking Participant Information Form for sample Shadow youth (completed by parents)	2,401	2	8/60	640

Dated: February 5, 2015.

Genevieve deAlmeida-Morris,

Project Clearance Liaison, National Institute on Drug Abuse, NIH.

[FR Doc. 2015–02832 Filed 2–10–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel; NIAMS Clinical Study Applications.

Date: March 20, 2015.

Time: 8:00 a.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications

Place: National Institutes of Health, One Democracy Plaza, Suite 800, 6701 Democracy Boulevard, Bethesda, MD 20892.

Contact Person: Kan Ma, Ph.D., Scientific Review Officer, Scientific Review Branch National Institute of Arthritis, Musculoskeletal and Skin Diseases, NIH, 6701 Democracy Boulevard, Suite 814, Bethesda, MD 20892, 301–451–4838 *mak2@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: February 5, 2015.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–02758 Filed 2–10–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Neurological Disorders and Stroke Special Emphasis Panel, March 16, 2015, 08:00 a.m. to March 17, 2015, 06:00 p.m., Bethesda North Marriott Hotel & Conference Center, Montgomery County Conference Center Facility, 5701 Marinelli Road, North Bethesda, MD 20852 which was published in the **Federal Register** on January 23, 2015, 80FRN3613.

The meeting has been changed to a teleconference meeting. The date and time remain the same. The meeting is closed to the public.

Dated: February 5, 2015.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–02757 Filed 2–10–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Microbiology, Infectious Diseases and AIDS Initial Review Group; Microbiology and Infectious Diseases B Subcommittee.

Date: March 2–3, 2015.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Bethesda North Marriott Hotel & Conference Center, Montgomery County Conference Center Facility, 5701 Marinelli Road, North Bethesda, MD 20852.
Contact Person: Ellen S. Buczko, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 5601 Fishers Lane, Rockville, 20892, 240–669–5028, *ebuczko1@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: February 4, 2015.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–02754 Filed 2–10–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center For Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Healthcare Delivery and Methodologies Integrated Review Group, Biostatistical Methods and Research Design Study Section.
Date: February 27, 2015.
Time: 11:00 a.m. to 8:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Fairmont Hotel San Francisco, 950 Mason Street, San Francisco, CA 94108.
Contact Person: Wenchi Liang, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3150, MSC 7770, Bethesda, MD 20892, 301–435–0681, *liangw3@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, PAR–13–080: Accelerating the Pace of Drug Abuse Research Using Existing Data.
Date: March 2, 2015.
Time: 1:00 p.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Suzanne Ryan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3139, MSC 7770, Bethesda, MD 20892, (301) 435–1712, *ryansj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Topics in Microbiology.
Date: March 3, 2015.
Time: 1:00 p.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Fouad A El-Zaatari, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3206, MSC 7808, Bethesda, MD 20892, (301) 435–1149, *elzaataf@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Radiation Therapy and Biology SBIR/STTR.
Date: March 5–6, 2015.
Time: 9:00 a.m. to 8:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Bo Hong, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6194, MSC 7804, Bethesda, MD 20892, 301–996–6208, *hongb@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Language and Communication.
Date: March 6, 2015.
Time: 10:00 a.m. to 12:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Biao Tian, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3089B, MSC 7848, Bethesda, MD 20892, (301) 402–4411, *tianbi@csr.nih.gov.*

Name of Committee: AIDS and Related Research Integrated Review Group, Behavioral and Social Consequences of HIV/AIDS Study Section.
Date: March 9–10, 2015.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Melrose Hotel, 2430 Pennsylvania Ave. NW., Washington, DC 20037.
Contact Person: Mark P. Rubert, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, MSC 7852, Bethesda, MD 20892, 301–806–6596, *rubertm@csr.nih.gov.*

Name of Committee: AIDS and Related Research Integrated Review Group, Behavioral and Social Science Approaches to Preventing HIV/AIDS Study Section.
Date: March 12–13, 2015.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Nikko Hotel, 222 Mason St., San Francisco, CA 94102.
Contact Person: Jose H Guerrier, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5222, MSC 7852, Bethesda, MD 20892, 301–435–1137, *guerriej@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: February 5, 2015.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–02756 Filed 2–10–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Initial Review Group Diabetes, Endocrinology and Metabolic Diseases B Subcommittee.
Date: March 3–4, 2015.

Open: March 3, 2015, 8:00 a.m. to 8:30 a.m.
Agenda: To review policy and procedures.
Place: Residence Inn San Diego Downtown/Gaslamp Quarter, 356 6th Avenue, San Diego, CA 92101.
Closed: March 3, 2015, 8:30 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Residence Inn San Diego Downtown/Gaslamp Quarter, 356 6th Avenue, San Diego, CA 92101.
Closed: March 04, 2015, 8:00 a.m. to 2:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Residence Inn San Diego Downtown/Gaslamp Quarter, 356 6th Avenue, San Diego, CA 92101.
Contact Person: John F. Connaughton, Ph.D., Chief, Chartered Committees Section, Review Branch, DEA, NIDDK, National Institutes of Health, Room 753, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7797, *connaughtonj@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Initial Review, Group Kidney, Urologic and Hematologic Diseases D Subcommittee.
Date: March 3–5, 2015.
Open: March 3, 2015, 4:00 p.m. to 4:30 p.m.
Agenda: To review policy and procedures.
Place: Warwick Seattle Hotel, 401 Lenora Street, Seattle, WA 98121.
Closed: March 3, 2015, 4:30 p.m. to Adjournment.
Agenda: To review and evaluate grant applications.
Place: Warwick Seattle Hotel, 401 Lenora Street, Seattle, WA 98121.
Closed: March 4, 2015, 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Warwick Seattle Hotel, 401 Lenora Street, Seattle, WA 98121.
Closed: March 5, 2015, 8:00 a.m. to Adjournment.
Agenda: To review and evaluate grant applications.
Place: Warwick Seattle Hotel, 401 Lenora Street, Seattle, WA 98121.
Contact Person: Barbara A. Woynarowska, Ph.D., Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 754, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 402–7172, *woynarowskab@niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Initial Review Group Digestive Diseases and Nutrition C Subcommittee.
Date: March 12–13, 2015.
Open: March 12, 2015, 8:00 a.m. to 8:30 a.m.
Agenda: To review policy and procedures.
Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.
Closed: March 12, 2015, 8:30 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.
Closed: March 13, 2015, 8:00 a.m. to Adjournment.
Agenda: To review and evaluate grant applications.
Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Robert Wellner, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 706, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, *rw175w@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: February 4, 2015.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–02755 Filed 2–10–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of meetings of the Board of Scientific Counselors for Clinical Sciences and Epidemiology, National Cancer Institute and the Board of Scientific Counselors for Basic Sciences, National Cancer Institute.

The meetings will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Cancer Institute, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors for Basic Sciences, National Cancer Institute.
Date: March 9, 2015.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.
Place: National Institutes of Health, 31 Center Drive, Building 31, C–Wing, 6th Floor, Conference Room 6, Bethesda, MD 20892.
Contact Person: Mehrdad Tondravi, Ph.D., Chief, Institute Review Office, Office of the Director, National Cancer Institute, National Institutes of Health, 9609 Medical Center Drive, Room 3W302, Rockville, MD 20850, 240–276–5660, *tondravim@mail.nih.gov.*

Name of Committee: Board of Scientific Counselors for Clinical Sciences and Epidemiology, National Cancer Institute.
Date: March 10, 2015.
Time: 9:00 a.m. to 2:30 p.m.
Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.
Place: National Institutes of Health, 31 Center Drive, Building 31, C Wing, 6th Floor, Conference Room 6, Bethesda, MD 20892.
Contact Person: Brian E. Wojcik, Ph.D., Executive Secretary, Institute Review Office, Office of the Director, National Cancer Institute, National Institutes of Health, 9609 Medical Center Drive, Room 3W414, Rockville, MD 20850, 240–276–5660, *wojcikb@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: February 5, 2015.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–02759 Filed 2–10–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Cognition and Aging.
Date: March 17, 2015.
Time: 2:00 p.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institute on Aging, Gateway Building, Suite 2C212, 7201

Wisconsin Avenue, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Elaine Lewis, Ph.D., Scientific Review Branch, National Institute on Aging, Gateway Building, Suite 2C212, MSC–9205, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–402–7707 *elainelewis@nia.nih.gov.*

Name of Committee: National Institute on Aging Special Emphasis Panel; Aerobic Exercise and Muscle Function.

Date: March 30, 2015.

Time: 3:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, Suite 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Elaine Lewis, Ph.D., Scientific Review Branch, National Institute on Aging, Gateway Building, Suite 2C212, MSC–9205, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–402–7707, *elainelewis@nia.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: February 4, 2015.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–02753 Filed 2–10–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

Intent To Request Renewal From OMB of One Current Public Collection of Information: Baseline Assessment for Security Enhancement (BASE) Program

AGENCY: Transportation Security Administration, DHS.

ACTION: 60-day notice.

SUMMARY: The Transportation Security Administration (TSA) invites public comment on one currently approved Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0062 abstracted below that we will submit to OMB for revision in compliance with the Paperwork Reduction Act (PRA). TSA has combined two previously-approved ICRs (1652–0061 and 1652–0062) into this single request to simplify the collection, increase transparency, and reduce duplicative efforts. TSA assesses the current security practices in the transit and passenger rail and highway and motor carrier industries by way of its Baseline Assessment for Security Enhancement (BASE) program, which encompasses site visits and interviews, and is part of the larger domain awareness, prevention, and protection program supporting TSA's and the Department of Homeland Security's (DHS) missions. This voluntary collection allows TSA to conduct transportation security-related assessments during site visits with surface transportation security and operating officials.

DATES: Send your comments by April 13, 2015.

ADDRESSES: Comments may be emailed to *TSAPRA@tsa.dhs.gov* or delivered to the TSA PRA Officer, Office of Information Technology (OIT), TSA–11, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6011.

FOR FURTHER INFORMATION CONTACT: Christina A. Walsh at the above address, or by telephone (571) 227–2062.

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation is available at *http://www.reginfo.gov.* Therefore, in preparation for OMB review and re-approval of the following voluntary information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information request is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(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 using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

Purpose of Data Collection

Under the Aviation and Transportation Security Act (ATSA) and delegated authority from the Secretary of Homeland Security, TSA has broad responsibility and authority for ''security in all modes of transportation including security responsibilities over modes of transportation that are exercised by the Department of Transportation.'' [1] TSA is required to ''assess the security of each surface transportation mode and evaluate the effectiveness and efficiency of current Federal Government surface transportation security initiatives.'' E.O. 13416, sec. 3(a) (Dec. 5, 2006). TSA is also specifically empowered to develop policies, strategies, and plans for dealing with threats to transportation,[2] ensure the adequacy of security measures for the transportation of cargo,[3] oversee the implementation and ensure the adequacy of security measures at transportation facilities,[4] and carry out other appropriate duties relating to transportation security.[5]

TSA developed the Baseline Assessment for Security Enhancement (BASE) program in 2007, in an effort to engage with surface transportation entities to establish a ''baseline'' of security and emergency response operations. This program was initially created for Public Transportation (PT) BASE systems. However, based on the success of the program, TSA developed the Highway (HWY) BASE program in 2012, with full implementation in 2013. This voluntary program has served to evaluate and collect physical and operational preparedness information and critical assets and key point-of-contact lists. The program also reviews emergency procedures and domain awareness training, and provides an opportunity to share industry best practices.

While many public transportation systems have security and emergency response plans or protocols in place, there is no consistent approach to evaluating the extent to which security programs exist, nor the content of those programs. As a result, there also are no consistent data about these transportation security programs, nor a database that can be used to benchmark the programs. The BASE program is designed to address these issues.

[1] *See* Public Law 107–71, 115 Stat. 597 (Nov. 19, 2001), codified at 49 U.S.C. 114(d). The TSA Administrator's current authorities under ATSA have been delegated to him by the Secretary of Homeland Security. Section 403(2) of the Homeland Security Act (HSA) of 2002, Public Law 107–296, 116 Stat. 2315 (2002), transferred all functions of TSA, including those of the Secretary of Transportation and the Under Secretary of Transportation of Security related to TSA, to the Secretary of Homeland Security. Pursuant to DHS Delegation Number 7060.2, the Secretary delegated to the Assistant Secretary (now referred to as the Administrator of TSA), subject to the Secretary's guidance and control, the authority vested in the Secretary with respect to TSA, including that in sec. 403(2) of the HSA.

[2] 49 U.S.C. 114(f)(3).

[3] 49 U.S.C. 114(f)(10).

[4] 49 U.S.C. 114(f)(11).

[5] 49 U.S.C. 114(f)(15).

Description of Data Collection

In carrying out the voluntary BASE program, TSA's Transportation Security Inspectors—Surface (TSIs–S) conduct BASE reviews during site visits with security and operating officials of transit (including transit bus) and passenger rail systems, trucking, school bus contractors, school districts, and motor coach companies throughout the United States, capturing and documenting relevant information on a standardized checklist. All BASE reviews are done on a voluntary basis and are not regulatory inspections. Advance coordination and planning ensures the efficiency of the assessment process. The TSIs–S review and analyze the public transportation and highway entities' security plan, if adopted, and determine if the mitigation measures included in the plan are being effectively implemented, while providing additional resources for further security enhancement. In addition to examining the security plan document, TSA reviews one or more assets of the public transportation and highway entities' system.

During BASE site visits of PT and HWY entities, TSIs–S collect information and complete a BASE checklist from the review PT and HWY entities' documents, plans, and procedures. They also interview appropriate PT and HWY entities personnel and conduct system observations prompted by questions raised during the document review and interview stages. TSA conducts the interviews to ascertain and clarify information on security measures and to identify security gaps. The interviews also provide TSA with a method to encourage the surface transportation entities participating in the BASE reviews to be diligent in effecting and maintaining security-related improvements.

This program provides TSA with real-time information on current security practices within the transit (including transit bus), passenger rail, trucking, school bus contractor, school district, and motor coach modes of the surface transportation sector. This information also allows TSA to adapt programs to the changing threat dynamically, while incorporating an understanding of the improvements surface transportation entities make in their security posture. Without this information, the ability of TSA to perform its security mission would be severely hindered. Additionally, the relationships these face-to-face contacts foster are critical to TSA's ability to reach out to the surface transportation entities participating in the BASE program.

If TSA determines information in a completed assessment constitutes Sensitive Security Information in accordance with 49 U.S.C. 114(r) and 49 CFR parts 15 and 1520, TSA will protect it in accordance with the requirements set forth in part 1520.

Use of Results

The information collected by TSA through BASE reviews helps to strengthen the security of PT and HWY entities' security programs by supporting security program development (including grant programs),[6] and the analysis/evaluation provides a consistent road map for PT and HWY entities to address security and emergency program vulnerabilities. In addition, a PT or HWY entity that undergoes a BASE review is provided with a report of results that can be used by the system to identify and prioritize vulnerabilities and funding to enhance security. The BASE reviews also will align PT and HWY entities' security efforts with other TSA risk reduction efforts and provide industry partners corrective action options to consider by identifying security smart practices to share with others.

Specifically, the information collected will be used:

1. To develop a baseline understanding of a PT and HWY entities' security and emergency management processes, procedures, policies, programs, and activities against security requirements and recommended security practices published by TSA.

2. To enhance a PT and HWY entities' overall security posture through collaborative review and discussion of existing security activities, identification of areas of potential weakness or vulnerability, and development of remedial recommendations and courses of action.

3. To identify programs and protocols implemented by PT and HWY entities that represent an ''effective'' or ''smart'' security practice warranting sharing with the transportation community as a whole to foster general enhancement of security in the transportation mode.

4. To inform TSA's development of security strategies, priorities, and programs for the most effective application of available resources, including funds distributed under the respective Federal grant programs, to enhance security within the Nation's surface transportation system.

While TSA has not set a limit on the number of BASE program reviews to conduct, TSA estimates it will conduct approximately 30 PT BASE reviews and approximately 60 HWY BASE reviews on an annual basis. TSA does not intend to conduct more than one BASE review per transit or passenger rail system in a single year. TSA estimates that the hour burden per PT entity to engage its security and/or operating officials with inspectors in the interactive BASE program review process is approximately 12 hours. Also, TSA estimates that the hour burden per HWY entity to engage its security and/or operating officials with inspectors in the interactive BASE program review process is approximately 5 hours. Thus, the total annual hour burden for the PT BASE program review is 360 hours annually (30×12 hours = 360 hours) and for HWY BASE 300 hours annually (60×5 hours = 300 hours).

Dated: February 5, 2015.

Christina A. Walsh,

TSA Paperwork Reduction Act Officer, Office of Information Technology.

[FR Doc. 2015–02829 Filed 2–10–15; 8:45 am]

BILLING CODE 91105–05–P

[6] *See* United States Government Accountability Office (GAO) Report to Congressional Requesters, GAO–15–159, *PUBLIC TRANSIT Federal and Transit Agencies Taking Steps to Build Transit Systems' Resilience but Face Challenges,* December 2014, page 10. *http://www.gao.gov/assets/670/667391.pdf.* GAO reviewed transit systems' resilience to catastrophic events. The report examined (1) how DHS and the Department of Transportation help transit agencies make their systems resilient; (2) actions selected by transit agencies take to make their systems resilient; and (3) challenges transit agencies face with making their systems resilient.

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

Intent To Request Renewal From OMB of One Current Public Collection of Information: Law Enforcement Officer Flying Armed Training

AGENCY: Transportation Security Administration, DHS.

ACTION: 60-day notice.

SUMMARY: The Transportation Security Administration (TSA) invites public comment on one currently approved Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0034, abstracted below that we will submit to OMB for renewal in compliance with the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. The collection involves the Federal Air Marshal Service (FAMS) maintenance of a database of all Federal, State and local law enforcement

agencies that have received the Law Enforcement Officer (LEO) Flying Armed Training course.

DATES: Send your comments by April 13, 2015.

ADDRESSES: Comments may be emailed to *TSAPRA@tsa.dhs.gov* or delivered to the TSA PRA Officer, Office of Information Technology (OIT), TSA–11, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6011.

FOR FURTHER INFORMATION CONTACT: Christina A.Walsh at the above address, or by telephone (571) 227–2062.

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation is available at *http://www.reginfo.gov.* Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) evaluate the accuracy of the agency's estimate of the burden;

(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 using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

OMB Control Number 1652–0034; Law Enforcement Officer Flying Armed Training. TSA is requesting approval for the renewal of the collection of this information to comply with 49 CFR 1544.219, which requires Federal LEOs, full-time territorial, tribal, municipal, county or state LEOs who are direct employees of government agencies, and authorized railroad police officers to complete the LEOs Flying Armed training course in order to fly armed. The course is a non-tactical overview of the conditions under which an officer may fly armed and the required conduct and duties of the LEO while flying armed. This collection permits TSA to collect identifying information from law enforcement agencies requesting the LEO Flying Armed training course.

Information is gathered from law enforcement agencies who have requested the LEO Flying Armed training course. The information is gathered to confirm that the agencies are eligible for this program (*i.e.,* that they are active law enforcement agencies whose officers have an operational need to fly armed). Law enforcement agencies are required to contact the TSA/FAMS via phone or email and provide the full name of the agency's designated point of contact, agency name, agency address, telephone number, and email address to obtain the LEO Flying Armed training course. The FAMS maintain a record of law enforcement agencies and their point of contact that have received the training materials. If an issue arises during the screening and verification process regarding the authenticity of an agency that requests training materials, no training materials will be supplied until that issue has either been confirmed or resolved and a record of such is maintained.

Upon completion of the training, the LEO who has been authorized by his or her agency to fly armed presents his or her credentials and other required documentation at the airport in order to fly armed. A Transportation Security Officer verifies all pertinent information onsite. Based on current data, TSA estimates there are approximately 2,000 respondents on an annual basis. At most, each agency spends approximately 5 minutes to provide the information TSA needs to confirm the law enforcement agencies are eligible to receive the training. This amounts to 2000 agencies multiplied by 5 minutes equals 166.6 hours (2000 agencies × 5 min = 10,000 min [166.6 hrs.]) for a total annual hour burden of 167 hours.

Dated: February 5, 2015.

Christina A. Walsh,

TSA Paperwork Reduction Act Officer, Office of Information Technology.

[FR Doc. 2015–02830 Filed 2–10–15; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOMELAND SECURITY

[OMB Control Number 1615–0127]

Agency Information Collection Activities: E-Verify Program Data Collections: 2015 Survey of E-Verify Employers; Reinstatement, With Change, of a Previously Approved Collection for Which Approval Has Expired

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) invites the general public and other Federal agencies to comment upon this proposed reinstatement, with change, of a previously approved collection for which approval has expired. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until April 13, 2015.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0127 in the subject box, the agency name and Docket ID USCIS–2012–0002. To avoid duplicate submissions, please use only one of the following methods to submit comments:

(1) *Online.* Submit comments via the Federal eRulemaking Portal Web site at *www.regulations.gov* under e-Docket ID number USCIS–2012–0002;

(2) *Email.* Submit comments to *USCISFRComment@uscis.dhs.gov;*

(3) *Mail.* Submit written comments to DHS, USCIS, Office of Policy and Strategy, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2140.

FOR FURTHER INFORMATION CONTACT: If you need a copy of the information collection instrument with instructions, or additional information, please visit the Federal eRulemaking Portal site at: *http://www.regulations.gov.* We may also be contacted at: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Laura Dawkins, Chief, 20 Massachusetts Avenue NW.,

Washington, DC 20529–2140, Telephone number 202–272–8377.

SUPPLEMENTARY INFORMATION:

Comments

Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Note: The address listed in this notice should only be used to submit comments concerning this information collection. Please do not submit requests for individual case status inquiries to this address. If you are seeking information about the status of your individual case, please check ''My Case Status'' online at: *https://egov.uscis.gov/cris/Dashboard.do,* or call the USCIS National Customer Service Center at 1–800–375–5283.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Reinstatement, With Change, of a Previously Approved Collection for Which Approval Has Expired; Existing Collection in Use Without an OMB Control Number.

(2) *Title of the Form/Collection:* E-Verify Program Data Collections: 2015 Survey of E-Verify Employers.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* No Agency Form Number; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Business or other for-profit. E-Verify Program Data Collections: 2015 Survey of E-Verify Employers is necessary in order for U.S. Citizenship and Immigration Services (USCIS) to obtain data from E-Verify employers in anticipation of the enactment of mandatory state and/or national eligibility verification programs for all or a substantial number of employers.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection E-Verify Program Data Collections: 2015 Survey of E-Verify Employers is 2,800 and the estimated hour burden per response is 30 minutes (.5 hours).

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 1,400 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $0.

Dated: February 5, 2015.

Laura Dawkins,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2015–02718 Filed 2–10–15; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of Coastal Gulf and International, Inc., as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of Coastal Gulf and International, Inc., as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Coastal Gulf and International, Inc., has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of August 19, 2014.

DATES: The accreditation and approval of Coastal Gulf and International, Inc., as a commercial gauger and laboratory became effective on August 19, 2014. The next triennial inspection date will be scheduled for August 2017.

FOR FURTHER INFORMATION CONTACT: Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific Services Directorate, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that Coastal Gulf and International, Inc., 13615 River Rd., Luling, LA 70070, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Coastal Gulf and International, Inc., is approved for the following gauging procedures for petroleum and certain petroleum products from the American Petroleum Institute (API):

API chapters	Title
3	Tank gauging.
7	Temperature determination.
8	Sampling.
11	Physical Property.
12	Calculations.
17	Maritime measurement.
18	Crude Oil Gathered From Small Tanks by Truck.

Coastal Gulf and International, Inc., is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27–03	ASTM D–4006	Standard test method for water in crude oil by distillation.
27–48	ASTM D–4052	Standard test method for density and relative density of liquids by digital density meter.
27–13	ASTM D–4294	Standard test method for sulfur in petroleum and petroleum products by energy-dispersive x-ray fluorescence spectrometry.
27–04	ASTM D–95	Standard test method for water in petroleum products and bituminous materials by distillation.
27–05	ASTM D–4928	Standard test method for Water in crude oils by Coulometric Karl Fischer Titration.
27–08	ASTM D–86	Standard test method for distillation of petroleum products at atmospheric pressure.
27–11	ASTM D–445	Standard test method for kinematic viscosity of transparent and opaque liquids (and calculations of dynamic viscosity).
27–58	ASTM D–5191	Standard test method for Vapor pressure of petroleum products (Mini Method).
27–06	ASTM D–473	Standard test method for sediment in crude oils and fuel oils by the extraction method.
27–50	ASTM D–93	Standard test methods for flash point by Penske-Martens Closed Cup Tester.
27–46	ASTM D–5002	Standard test method for density and relative density of crude oils by digital density analyzer (API gravity).

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *CBPGaugersLabs@cbp.dhs.gov.* Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories.*

Dated: February 4, 2015.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services Directorate.

[FR Doc. 2015–02775 Filed 2–10–15; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

United States Immigration and Customs Enforcement

Agency Information Collection Activities: Extension, Without Change, of an Existing Information Collection; Comment Request

ACTION: 60-Day Notice of Information collection for review; Form No. I–333, Obligor change of address; OMB Control No. 1653–0042.

The Department of Homeland Security, U.S. Immigration and Customs Enforcement (USICE), is submitting the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until April 13, 2015.

Written comments and suggestions regarding items contained in this notice and especially with regard to the estimated public burden and associated response time should be directed to the Department of Homeland Security (DHS), Scott Elmore, Forms Management Office, U.S. Immigrations and Customs Enforcement, 801 I Street NW., Mailstop 5800, Washington, DC 20536–5800.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension, without change, of a currently approved information collection.

(2) *Title of the Form/Collection:* Obligor Change of Address.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–133; U.S. Immigration and Customs Enforcement.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individual or Households, Business or other non-profit. The data collected on this form is used by ICE to ensure accuracy in correspondence between ICE and the obligor. The form serves the purpose of standardizing obligor notification of any changes in their address, and will facilitate communication with the obligor.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 12,000 responses at 15 minutes (.25 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 3,000 annual burden hours.

Dated: February 6, 2015.

Scott Elmore,

Program Manager, Forms Management Office, Office of the Chief Information Officer, U.S. Immigration and Customs Enforcement, Department of Homeland Security.

[FR Doc. 2015–02825 Filed 2–10–15; 8:45 am]

BILLING CODE 9111–28–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[15XD4523WS DS67011100 DWSNN0000.XB0000 DP6EG02]

Notice of Emergency Information Collection and Request for Comments: OMB Control Number 1093–0006, Volunteer Partnership Management

AGENCY: Office of the Secretary, Interior.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of the Secretary, Department of the Interior announces an emergency information collection and seeks public comments on the provisions thereof.

DATES: Consideration will be given to all comments received by April 13, 2015.

ADDRESSES: Send your written comments to Marta Kelly, Office of the Secretary, U.S. Department of the Interior, 1849 C Street NW., MS 7228–MIB, Washington, DC 20240, fax 202–208–7239, or by email to *Marta_Kelly@nps.gov.* Please mention that your comments concern the Volunteer Partnership Management program, OMB Control Number 1093–0006.

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request, any explanatory information and related forms, see the contact information provided in the **ADDRESSES** section above.

SUPPLEMENTARY INFORMATION:

I. Abstract

This information collection received emergency approval from OMB on December 16, 2014. This approval is good for six months and we are now requesting comments as part of the standard review process.

The Office of Management and Budget (OMB) regulations at 5 CFR part 1320, which implement the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.,* require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)).

Federal land management agencies are authorized to work with volunteers, youth programs, and partner organizations to plan, develop, maintain, and manage projects and service activities on public lands and adjacent projects throughout the nation. Agencies and partners may recruit, train, and accept the services of volunteers, youth programs, and partners to aid in interpretive functions, visitor services, conservation measures and development, research and development, recreation, and or other activities in nearly all areas of service. Volunteers, youth programs, and partners can be an efficient, effective, and cost-beneficial use of public resources. The participants of these efforts, especially youth, benefit from skill development and service learning that enhances their capacity to find meaningful employment opportunities and be stewards for public lands.

In order to effectively engage hundreds of thousands of volunteers, youth participants, and partners in meaningful service activities at multiple locations, participating agencies and non-Federal organizations, we must collect information from youth program participants and volunteers who are interested in participating, supporting, and managing programs on public lands. The information collected from individuals includes contact information, demographic data including ethnicity and veterans and disability status. Information from partner organizations includes agreement, costs incurred, contact information, IRS status, public financial reports, and supporting documentation such as project completion reports, pictures, and hours contributed.

The information will be collected through a web based platform that consists of five modules including: The National Park Service (NPS) Volunteer-In-Parks (VIP) Reporting Module, Youth Partner Tracking Module, Outreach Recruitment Resume Module, Partnerships Module, and the Cooperating Association Module. The NPS Volunteer-In-Parks (VIP) Reporting Module allows partners to provide information on the annual volunteer efforts they manage independently on behalf of the Federal agencies in communities and Federal lands through assistance programs. The Youth Partner Tracking module will collect data from individuals between the ages of 16 and 35 which is considered the eligibility age for youth programs under the 16 U.S.C. 1722 *et seq.,* Public Lands Corps (PLC) Act and Interior Departmental Secretarial Order 3332. The Outreach-Recruitment Resume Module will collect data provided by citizens, including veterans and youth, seeking employment opportunities at career fairs, outreach events, military programs, and from Public Land Corps participants. The Partnerships Module collects information from various volunteer organizations which are under national agreements to manage services and programs on public lands for citizens and provides an annual summary of their activities. The Cooperating Association Module collects information from not-for-profit public lands partners under national agreements to manage bookstores and sales items with Federal agencies.

This request for comments on the information collection is being published by the Office of the Secretary, Department of the Interior and includes the use of common forms that can be leveraged by other Federal Agencies. The burden estimates reflected in this notice is only for the Department of the Interior. Other Federal Agencies wishing to use the common forms must submit their own burden estimates and provide notice to the public accordingly.

II. Data

(1) *Title:* Volunteer Partnership Management.

OMB Control Number: 1093–0006.

Current Expiration Date: June 30, 2015.

Type of Review: New Information Collection.

Affected Entities: Potential and selected volunteers; youth program participants, veterans, prospective job applicants, cooperating associations, and partner organizations.

Estimated annual number of respondents: 28,433

Frequency of responses: Typically once per year but could be as frequently as 26 times per year for time and expense reporting.

(2) Annual reporting and recordkeeping burden:

Total annual reporting per response: 5–60 minutes depending on the function being performed.

Total number of estimated responses: 837,398.

Total annual reporting: 70,770 hours.

(3) Description of the need and use of the information: Participating natural and cultural resource agencies will use this information to manage agency volunteer, youth, outreach, recruitment and partner programs that support work on public lands. The Federal agencies will be more accountable to taxpayer by providing annual reports and program description of partnership activities which will be accessible on-line. Also, collecting youth program hours and demographic information will allow Federal agencies to provide better customer service to youth participants who have earned Public Lands Corps (PLC) credit for time served with the PLC, which may be used towards future Federal hiring; and provide former members of the PLC noncompetitive hiring status for a period of not more than 120 days after completion of PLC service.

III. Request for Comments

The Departments invite comments on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agencies, including whether the information will have practical utility;

(b) The accuracy of the agencies' estimate of the burden of the collection

of information and the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) Ways to minimize the burden of the collection of information on respondents, including through the use of appropriate automated, electronic, mechanical, or other collection techniques or other forms of information technology.

''Burden'' means the total time, effort, and financial resources expended by persons to generate, maintain, retain, disclose, or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install, and use technology and systems for the purposes 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, and to complete and review the collection of information; and to transmit or otherwise disclose the information.

All written comments, with names and addresses, will be available for public inspection. If you wish us to withhold your personal information, you must prominently state at the beginning of your comment what personal information you want us to withhold. We will honor your request to the extent allowable by law. If you wish to view any comments received, you may do so by scheduling an appointment with the Office of the Secretary by calling 202–208–7239. Valid picture identification is required for entry into the Department of the Interior.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget control number.

Dated: February 4, 2015.

Mary Pletcher,

Deputy Assistant Secretary for Human Capital and Diversity, Office of the Secretary.

[FR Doc. 2015–02781 Filed 2–10–15; 8:45 am]

BILLING CODE 4334–12–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–FAC–2015–N017; FF09F42300–FVWF97920900000–XXX]

Sport Fishing and Boating Partnership Council

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a public meeting of the Sport Fishing and Boating Partnership Council (Council). A Federal advisory committee, the Council was created in part to foster partnerships to enhance public awareness of the importance of aquatic resources and the social and economic benefits of recreational fishing and boating in the United States. This meeting is open to the public, and interested persons may make oral statements to the Council or may file written statements for consideration.

DATES: The meeting will take place Tuesday, February 24, 2015, from 8:30 a.m. to 4:30 p.m. (Eastern Daylight Time) and Wednesday, February 25, 2015 from 9 a.m. to 1:30 p.m. For deadlines and directions on registering to attend the meeting, submitting written material, and/or giving an oral presentation, please see ''Public Input'' under **SUPPLEMENTARY INFORMATION.**

ADDRESSES: The meeting will be held at the J.N. ''Ding'' Darling National Wildlife Refuge, 1 Wildlife Drive, Sanibel, Florida 33957.

FOR FURTHER INFORMATION CONTACT: Brian Bohnsack, Council Coordinator, 5275 Leesburg Pike, MS–3C016A–FAC, Falls Church, VA 22041; telephone (703) 358–2435; fax (703) 358–2210; or email *brian_bohnsack@fws.gov.*

SUPPLEMENTARY INFORMATION: In accordance with the requirements of the Federal Advisory Committee Act, 5 U.S.C. App., we announce that the Sport Fishing and Boating Partnership Council will hold a meeting.

Background

The Council was formed in January 1993 to advise the Secretary of the Interior, through the Director of the Service, on aquatic conservation endeavors that benefit recreational fishery resources and recreational boating and that encourage partnerships among industry, the public, and government. The Council represents the interests of the public and private sectors of the recreational fishing, boating, and conservation communities and is organized to enhance partnerships among industry, constituency groups, and government. The 18-member Council, appointed by the Secretary of the Interior, includes the Service Director and the president of the Association of Fish and Wildlife Agencies, who both serve in ex officio capacities. Other Council members are directors from State agencies responsible for managing recreational fish and wildlife resources and individuals who represent the interests of saltwater and freshwater recreational fishing, recreational boating, the recreational fishing and boating industries, recreational fisheries resource conservation, Native American tribes, aquatic resource outreach and education, and tourism. Background information on the Council is available at *http://www.fws.gov/sfbpc.*

Meeting Agenda

The Council will hold a meeting to consider:

- An update from the FWS Fish and Aquatic Conservation Program on their new strategic plan and other programs;
- An update and discussion on the Council's assessment of the Recreational Boating and Fishing Foundation's implementation of the National Outreach and Communication Program (Catalog of Federal Domestic Assistance number 15.653);
- An update and discussion regarding a proposed pilot project to improve the efficiency of Federal agencies' permitting review processes associated with boating infrastructure projects (*e.g.,* boat dock replacement and maintenance, boat ramp construction and maintenance);
- An update of the boating access expenditure component of the Sport Fish Restoration Program;
- An update on Tribal fish and wildlife conservation programs as they pertain to priorities of the Sport Fishing and Boating Partnership Council;
- Other miscellaneous Council business.

The final agenda will be posted on the Internet at *http://www.fws.gov/sfbpc.*

Public Input

If you wish to	Then you must contact the Council Coordinator (see **FOR FURTHER INFORMATION CONTACT**) no later than
Attend the meeting	Wednesday, February 18, 2015.
Submit written information or questions before the meeting for the council to consider during the meeting	Wednesday, February 18, 2015.
Give an oral presentation during the meeting	Wednesday, February 18, 2015.

Attendance

The Council meeting will be held at the J.N. ''Ding'' Darling National Wildlife Refuge Headquarters complex, 1 Wildlife Drive, Sanibel, Florida. Signs will be posted to direct attendees to the specific conference room.

Submitting Written Information or Questions

Interested members of the public may submit relevant information or questions for the Council to consider during the meeting. Written statements must be received by the date listed above in ''Public Input,'' so that the information may be made available to the Council for their consideration prior to the meeting. Written statements must be supplied to the Council Coordinator in one of the following formats: One hard copy with original signature, and one electronic copy via email (acceptable file formats are Adobe Acrobat PDF, MS Word, MS PowerPoint, or rich text file).

Giving an Oral Presentation

Individuals or groups requesting to make an oral presentation during the meeting will be limited to 2 minutes per speaker, with no more than a total of 30 minutes for all speakers. Interested parties should contact the Council Coordinator, in writing (preferably via email; see **FOR FURTHER INFORMATION CONTACT**), to be placed on the public speaker list for this meeting. To ensure an opportunity to speak during the public comment period of the meeting, members of the public must register with the Council Coordinator. Registered speakers who wish to expand upon their oral statements, or those who had wished to speak but could not be accommodated on the agenda, may submit written statements to the Council Coordinator up to 30 days subsequent to the meeting.

Meeting Minutes

Summary minutes of the meeting will be maintained by the Council Coordinator (see **FOR FURTHER INFORMATION CONTACT**) and will be available for public inspection within 90 days of the meeting and will be posted on the Council's Web site at *http://www.fws.gov/sfbpc.*

Stephen Guertin,

Acting Director.

[FR Doc. 2015–02784 Filed 2–10–15; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWO350000.L14400000.PN0000]

Renewal of Approved Information Collection; Control Number 1004–0153

AGENCY: Bureau of Land Management, Interior.

ACTION: 60-Day notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act, the Bureau of Land Management (BLM) invites public comments on, and plans to request approval to continue, the collection of information from owners of surface estates who apply for underlying Federally-owned mineral interests. The Office of Management and Budget (OMB) has assigned control number 1004–0153 to this information collection.

DATES: Please submit comments on the proposed information collection by April 13, 2015.

ADDRESSES: Comments may be submitted by mail, fax, or electronic mail.

Mail: U.S. Department of the Interior, Bureau of Land Management, 1849 C Street NW., Room 2134LM, Attention: Jean Sonneman, Washington, DC 20240.

Fax: To Jean Sonneman at 202–245–0050.

Electronic mail: Jean_Sonneman@blm.gov.

Please indicate ''Attn: 1004–0153'' regardless of the form of your comments.

FOR FURTHER INFORMATION CONTACT: Brenda Wilhight at 202–912–7346. Persons who use a telecommunication device for the deaf may call the Federal Information Relay Service at 1–800–877–8339, to leave a message for Ms. Wilhight.

SUPPLEMENTARY INFORMATION: OMB regulations at 5 CFR part 1320, which implement provisions of the Paperwork Reduction Act, 44 U.S.C. 3501–3521, require that interested members of the public and affected agencies be given an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d) and 1320.12(a)). This notice identifies an information collection that the BLM plans to submit to OMB for approval. The Paperwork Reduction Act provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

The BLM will request a 3-year term of approval for this information collection activity. Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will accompany our submission of the information collection requests to OMB.

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.

The following information pertains to this request:

Title: Conveyance of Federally-Owned Mineral Interests (43 CFR part 2720).

OMB Control Number: 1004–0153.

Summary: The respondents in this information collection are owners of surface estates who apply for underlying Federally-owned mineral estates. The BLM needs to conduct the information collection to determine if the applicants are eligible to receive title to the

Federally-owned minerals lying beneath their lands. When certain specific conditions have been met, the United States will convey legal title to the Federally-owned minerals to the owner of the surface estate.

Frequency of Collection: On occasion.

Description of Respondents: Owners of surface estates who apply for underlying Federally-owned mineral estates.

Estimated Annual Responses: 13.

Estimated Annual Burden Hours: 13.

Estimated Annual Non-Hour Costs: $650.

The following table details the individual components and respective annual hour burdens of this information collection request:

A. Type of response	B. Number of responses	C. Hours per response	D. Total hours (Column B × Column C)
Conveyance of Federally-Owned Mineral Interests—Businesses	4	1	4
Conveyance of Federally-Owned Mineral Interests—Individuals	8	1	8
Conveyance of Federally-Owned Mineral Interests—State/Local/Tribal Governments	1	1	1
Totals	13		13

Jean Sonneman,

Information Collection Clearance Officer, Bureau of Land Management.

[FR Doc. 2015–02740 Filed 2–10–15; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWO350000.L14400000.PN0000]

Renewal of Approved Information Collection; Control Number 1004–0004

AGENCY: Bureau of Land Management, Interior.

ACTION: 60-Day notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act, the Bureau of Land Management (BLM) invites public comments on, and plans to request approval to continue, the collection of information from applicants for a desert land entry for agricultural purposes. The Office of Management and Budget (OMB) has assigned control number 1004–0004 to this information collection.

DATES: Please submit comments on the proposed information collection by April 13, 2015.

ADDRESSES: Comments may be submitted by mail, fax, or electronic mail.

Mail: U.S. Department of the Interior, Bureau of Land Management, 1849 C Street NW., Room 2134LM, Attention: Jean Sonneman, Washington, DC 20240.

Fax: to Jean Sonneman at 202–245–0050.

Electronic mail: Jean_Sonneman@blm.gov.

Please indicate ''Attn: 1004–0004'' regardless of the form of your comments.

FOR FURTHER INFORMATION CONTACT: Brenda Wilhight at 202–912–7346. Persons who use a telecommunication device for the deaf may call the Federal Information Relay Service at 1–800–877–8339, to leave a message for Ms. Wilhight.

SUPPLEMENTARY INFORMATION: OMB regulations at 5 CFR part 1320, which implement provisions of the Paperwork Reduction Act, 44 U.S.C. 3501–3521, require that interested members of the public and affected agencies be given an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8 (d) and 1320.12(a)). This notice identifies an information collection that the BLM plans to submit to OMB for approval. The Paperwork Reduction Act provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

The BLM will request a 3-year term of approval for this information collection activity. Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will accompany our submission of the information collection requests to OMB.

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.

The following information pertains to this request:

Title: Desert Land Entry Application (43 CFR part 2520).

OMB Control Number: 1004–0004.

Summary: The BLM needs to collect the information in order to determine if an applicant is eligible to make a desert land entry to reclaim, irrigate, and cultivate arid and semiarid public lands in the States of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, North Dakota, South Dakota, Utah, Washington, and Wyoming.

Frequency of Collection: On occasion.

Form: Form 2520–1, Desert Land Entry Application.

Description of Respondents: Applicants for a desert land entry for agricultural purposes.

Estimated Annual Responses: 3.

Estimated Annual Burden Hours: 6.

Estimated Annual Non-Hour Costs: $45.

Jean Sonneman,

Information Collection Clearance Officer, Bureau of Land Management.

[FR Doc. 2015–02739 Filed 2–10–15; 8:45 am]

BILLING CODE 4310–84–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–908]

Certain Soft-Edged Trampolines and Components Thereof Notice of Commission Determination To Review the Final Initial Determination in Part; Schedule for Filing Written Submissions on the Issues Under Review and on Remedy, Public Interest, and Bonding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review-in-part the final initial determination issued by the presiding administrative law judge (''ALJ'') in the above-captioned investigation on December 5, 2014. The Commission requests certain briefing from the parties on the issues under review, as indicated in this notice. The Commission also requests briefing from the parties and interested persons on the issues of remedy, the public interest, and bonding.

FOR FURTHER INFORMATION CONTACT: Lucy Grace D. Noyola, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–205–3438. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on January 30, 2014, based on a complaint filed by of Springfree Trampoline, Inc. of Markham, Canada, Springfree Trampoline USA Inc. of Markham, Canada, and Spring Free Limited Partnership of Markham, Canada (collectively, ''Springfree''). 79 FR 4956, 4956 (Jan. 30, 2014). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation, sale for importation, or sale within the United States after importation of certain soft-edged trampolines and components thereof by reason of infringement of one or more of claims 1 and 13 of U.S. Patent No. 6,319,174 (the '' '174 patent''). *Id.* The notice of investigation names Vuly Trampolines Pty. Ltd. of Brisbane, Australia (''Vuly'') as the sole respondent. *Id.* at 4957. The Office of Unfair Import Investigations did not participate in the investigation. *Id.*

On December 5, 2014, the ALJ issued a final ID finding no violation of section 337. The ALJ found that Vuly's accused products infringe claims 1 and 13 of the '174 patent. The ALJ found that Springfree's alleged domestic industry products practice claim 13, but found that Springfree failed to satisfy the economic prong of the domestic industry requirement. The ALJ further found that claim 1 was not shown to be invalid, but found that claim 13 is invalid as anticipated by the prior art. On December 18, 2014, the ALJ issued a recommended determination (''RD'') on remedy and bonding. The ALJ recommended that, if the Commission finds a section 337 violation, a limited exclusion order should issue, with an exception for replacement, repair, and warranty parts. The ALJ recommended that the bond rate be set at zero percent.

On December 22, 2014, Springfree filed a petition for review of the ALJ's construction of the claim term ''first retaining means'' in claim 1 and the ALJ's findings with respect to domestic industry and anticipation of claim 13. The same day, Vuly filed a contingent petition for review of nearly all the remaining determinations by the ALJ in the event the Commission determines to review the ID. On January 2, 2015, the parties filed responses to the petitions. The Commission did not receive any post-RD public interest comments from the parties or the public.

Having examined the record of this investigation, including the ID, the petitions for review, and the responses thereto, the Commission has determined to review the ALJ's determination of no violation. Specifically, the Commission has determined to review (1) the ALJ's construction of ''flexible mat,'' ''first retaining means,'' and ''flexible elongated rod''; (2) the ALJ's findings of infringement of claim 1 and 13; (3) the ALJ's findings regarding the technical prong of the domestic industry requirement with respect to claims 1 and 13; (4) the ALJ's findings regarding validity with respect to claims 1 and 13; and (5) the ALJ's finding regarding the economic prong of the domestic industry requirement.

The parties are requested to brief their positions on the issues under review with reference to the applicable law and the existing evidentiary record. In connection with its review, the Commission requests responses to the following questions only.

1. What is the plain and ordinary meaning of ''flexible mat''? Please discuss whether this limitation, based on its plain and ordinary meaning, is met by the accused products, the alleged domestic industry products, and the prior art.

2. Please identify the structures disclosed in the '174 patent corresponding to the claimed function of the ''first retaining means'' limitation. Discuss the relevance, if any, of *Micro Chemical, Inc.* v. *Great Plains Chemical Co.,* 194 F.3d 1250 (Fed. Cir. 1999) and *Ishida Co.* v. *Taylor,* 221 F.3d 1310 (Fed. Cir. 2000). Please discuss how your response affects the analyses with respect to infringement, the technical prong of the domestic industry requirement, and validity.

3. What evidence in the record shows that Springfree's alleged domestic industry investment or employment activities are significant in the context of the industry in question, Springfree's relative size, the article of commerce, and the realities of the marketplace?

4. With respect to Springfree's alleged domestic industry products, how do Springfree's domestic industry investments in plant and equipment and/or employment of labor and capital compare to its foreign investments and/or employment? What share of the overall cost of manufacturing and installation of a Springfree trampoline is accounted for by installation service costs in the United States? Does this information support a finding that Springfree's domestic activities are significant?

In connection with the final disposition of this investigation, the Commission may (1) issue an order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) issue one or more cease and desist orders that could result in the respondent(s) being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, see *Certain Devices for Connecting Computers via Telephone Lines,* Inv. No. 337–TA–360, USITC Pub. No. 2843 (December 1994) (Commission Opinion).

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) the public

health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve or disapprove the Commission's action. *See* Presidential Memorandum of July 21, 2005, 70 FR 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

Written Submissions: The parties to the investigation are requested to file written submissions on all of the issues identified in this notice. Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Such submissions should address the recommended determination by the ALJ on remedy and bonding. Complainant Springfree is also requested to submit proposed remedial orders for the Commission's consideration. Springfree is also requested to state the date that the asserted patent expires and the HTSUS numbers under which the accused products are imported, and provide identification information for all known importers of the subject articles. Initial written submissions and proposed remedial orders must be filed no later than close of business on Thursday, February 19, 2015. Initial written submissions by the parties shall be no more than 40 pages, excluding any exhibits. Reply submissions must be filed no later than the close of business on Monday, March 2, 2015. Reply submissions by the parties shall be no more than 20 pages, excluding any exhibits. No further submissions on these issues will be permitted unless otherwise ordered by the Commission. Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the investigation number (''Inv. No. 337–TA–908'') in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, *http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf*). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. A redacted non-confidential version of the document must also be filed simultaneously with the any confidential filing. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: February 5, 2015.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2015–02782 Filed 2–10–15; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: MYODERM

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.34(a) on or before March 13, 2015. Such persons may also file a written request for a hearing on the application pursuant to 21 CFR 1301.43 on or before March 13, 2015.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA **Federal Register** Representative/ODW, 8701 Morrissette Drive, Springfield, Virginia 22152. Request for hearings should be sent to: Drug Enforcement Administration, Attention: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control (''Deputy Assistant Administrator'') pursuant to section 7 of 28 CFR part appendix to subpart R.

In accordance with 21 CFR 1301.34(a), this is notice that on October 6, 2014, Myoderm, 48 East Main Street, Norristown, Pennsylvania 19401, applied to be registered as an importer of the following basic classes of controlled substances:

Controlled substance	Schedule
Amphetamine (1100)	II
Lisdexamfetamine (1205)	II
Methylphenidate (1724)	II
Pentobarbital (2270)	II
Nabilone (7379)	II
Codeine (9050)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Hydrocodone (9193)	II
Levomethorphan (9210)	II
Meperidine (9230)	II
Methadone (9250)	II
Methadone intermediate (9254)	II
Morphine (9300)	II
Oxymorphone (9652)	II
Fentanyl (9801)	II

The company plans to import the listed controlled substances in finished dosage form for clinical trials, and research.

The import of the above listed basic classes of controlled substances will be granted only for analytical testing and clinical trials. This authorization does not extend to the import of a finished FDA approved or non-approved dosage form for commercial distribution in the United States.

Dated: February 5, 2015.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2015–02823 Filed 2–10–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: GE Healthcare

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.34(a) on or before March 13, 2015. Such persons may also file a written request for a hearing on the application pursuant to 21 CFR 1301.43 on or before March 13, 2015.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA **Federal Register** Representative/ODW, 8701 Morrissette Drive, Springfield, Virginia 22152. Request for hearings should be sent to: Drug Enforcement Administration, Attention: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152. Comments and request for hearings on applications to import narcotic raw material are not appropriate.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispenser, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control (''Deputy Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.34(a), this is notice that on September 12, 2014, GE Healthcare, 3350 North Ridge Avenue, Arlington Heights, Illinois 60004–1412 applied to be registered as an importer of cocaine (9041), a basic class of controlled substance listed in schedule II.

The company plans to import small quantities of ioflupane, in the form of three separate analogues of cocaine, to validate production and quality control systems, for a reference standard, and for producing material for a future investigational new drug (IND) submission.

Dated: February 5, 2015.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2015–02826 Filed 2–10–15; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: Mallinckrodt LLC

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.34(a) on or before March 13, 2015. Such persons may also file a written request for a hearing on the application pursuant to 21 CFR 1301.43 on or before March 13, 2015.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA **Federal Register** Representative/ODW, 8701 Morrissette Drive, Springfield, Virginia 22152. Request for hearings should be sent to: Drug Enforcement Administration, Attention: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152. Comments and requests for hearings on applications to import narcotic raw material are not appropriate. 72 FR 3417 (January 25, 2007).

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control (''Deputy Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.34(a), this is notice that on January 16, 2014, Mallinckrodt LLC, 3600 North Second Street, St. Louis, Missouri 63147, applied to be registered as an importer of the following basic classes of controlled substances:

Controlled substance	Schedule
Phenylacetone (8501)	II
Coca Leaves (9040)	II
Opium, raw (9600)	II
Poppy Straw Concentrate (9670)	II

The company plans to import the listed controlled substances for the manufacture of controlled substances in bulk for distribution to its customers.

In reference to Phenylacetone (8501), the company plans to import the controlled substance for the bulk manufacture of amphetamine products for sale to its customers.

Dated: February 5, 2015.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2015–02824 Filed 2–10–15; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Application: Siegfried USA, LLC

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.33(a) on or before April 13, 2015.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA **Federal Register** Representative/ODW, 8701 Morrissette Drive, Springfield, Virginia 22152. Request for hearings should be sent to: Drug Enforcement Administration, Attention: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to

exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control (''Deputy Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix of subpart, R.

In accordance with 21 CFR 1301.33(a), this is notice that on November 17, 2014, Siegfried USA, LLC, 33 Industrial Park Road, Pennsville, New Jersey 08070 applied to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Controlled substance	Schedule
Gamma Hydroxybutyric Acid (2010).	I
Dihydromorphine (9145)	I
Hydromorphinol (9301)	I
Methylphenidate (1724)	II
Amobarbital (2125)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
Codeine (9050)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Hydrocodone (9193)	II
Methadone (9250)	II
Methadone intermediate (9254)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273).	II
Morphine (9300)	II
Oripavine (9330)	II
Thebaine (9333)	II
Opium tincture (9630)	II
Oxymorphone (9652)	II

The company plans to manufacture the listed controlled substances in bulk for distribution to its customers.

Dated: February 5, 2015.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2015–02821 Filed 2–10–15; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Application: Cambridge IsotoPE LAB

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic class, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.33(a) on or before April 13, 2015.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA **Federal Register** Representative/ODW, 8701 Morrissette Drive, Springfield, Virginia 22152. Request for hearings should be sent to: Drug Enforcement Administration, Attention: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control (''Deputy Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.33(a), this is notice that on August 12, 2014, Cambridge Isotope Lab, 50 Frontage Road, Andover, Massachusetts 01810 applied to be registered as a bulk manufacturer of morphine (9300), a basic class of controlled substance listed in schedule II.

The company plans to utilize small quantities of the listed controlled substance in the preparation of analytical standards.

Dated: February 5, 2015.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2015–02820 Filed 2–10–15; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Application: INSYS Therapeutics, Inc.

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.33(a) on or before April 13, 2015.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA **Federal Register** Representative/ODW, 8701 Morrissette Drive, Springfield, Virginia 22152. Request for hearings should be sent to: Drug Enforcement Administration, Attention: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, and dispensers, of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control (''Deputy Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.33(a), this is notice that on October 17, 2014, Insys Therapeutics, Inc., 2700 Oakmont, Round Rock, Texas 78665 applied to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Controlled substance	Schedule
Marihuana (7360)	I
Tetrahydrocannabinols (7370)	I

The company plans to manufacture bulk synthetic active pharmaceutical ingredients (APIs) for product development and distribution to its customers. No other activity for this drug code is authorized for this registration.

Dated: February 5, 2015.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2015–02819 Filed 2–10–15; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Availability of Funds and Funding Opportunity Announcement for the Linking to Employment Activities Pre-release Specialized American Job Centers (AJCs)

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of Funding Opportunity Announcement (FOA).

Funding Opportunity Number: FOA–ETA–15–03.

SUMMARY: The Employment and Training Administration (ETA), U.S. Department of Labor, announces the availability of approximately $5 million in grant funds authorized by Section 171, Pilot and Demonstration Projects, of the Workforce Investment Act and Section 212 of the Second Chance Act of 2007 for Linking to Employment Activities Pre-release Specialized American Job Centers (AJCs) grants.

The purpose of this program is to provide locally incarcerated offenders with employability skills by providing them workforce services prior to release from local incarceration and linking them to a continuum of employment, training, education, and support services offered through their community-based AJCs post-release, as well as building connections to local employers that will enable transitioning offenders to secure employment pre-release.

The jail-based specialized AJCs will enable transitioning offenders to prepare for employment prior to release and continue with individual development and service plans in the community once released. The aim of these centers is to improve the workforce outcomes for transitioning offenders. These jail-based specialized AJCs will build upon the successful and effective strategies that currently exist in similar correctional facility-based one-stop centers across the country.

The complete FOA and any subsequent FOA amendments in connection with this solicitation are described in further detail on ETA's Web site at *http://www.doleta.gov/grants/* or on *http://www.grants.gov.* The Web sites provide application information, eligibility requirements, review and selection procedures, and other program requirements governing this solicitation.

DATES: The closing date for receipt of applications under this announcement is April 3, 2015. Applications must be received no later than 4:00:00 p.m. Eastern Time.

FOR FURTHER INFORMATION CONTACT: Andrea Hill, 200 Constitution Avenue NW., Room N–4716, Washington, DC 20210; Telephone: 202–693–3542.

The Grant Officer for this FOA is Melissa Abdullah.

Signed: February 5, 2015 in Washington, DC.

Eric D. Luetkenhaus,

Grant Officer/Division Chief, Employment and Training Administration.

[FR Doc. 2015–02814 Filed 2–10–15; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2014–0011]

Impregilo Healy Parsons Joint Venture; Application for Permanent Variance and Interim Order; Grant of Interim Order; Request for Comments

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the application of Impregilo Healy Parsons Joint Venture for a permanent variance and interim order from the provisions of OSHA standards that regulate work in compressed air environments and presents the Agency's preliminary finding to grant the permanent variance. OSHA also announces its grant of an interim order in this notice.

DATES: Submit comments, information, documents in response to this notice, and request for a hearing on or before March 13, 2015. The interim order specified by this notice becomes effective on February 11, 2015, and shall remain in effect until the completion of the Anacostia River tunnel project or the interim order is modified or revoked.

ADDRESSES: Submit comments by any of the following methods:

1. *Electronically:* Submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for making electronic submissions.

2. *Facsimile:* If submissions, including attachments, are not longer than 10 pages, commenters may fax them to the OSHA Docket Office at (202) 693–1648.

3. *Regular or express mail, hand delivery, or messenger (courier) service:* Submit comments, requests, and any attachments to the OSHA Docket Office, Docket No. OSHA–2014–0011, Technical Data Center, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–2625, Washington, DC 20210; telephone: (202) 693–2350 (TTY number: (877) 889–5627). Note that security procedures may result in significant delays in receiving comments and other written materials by regular mail. Contact the OSHA Docket Office for information about security procedures concerning delivery of materials by express mail, hand delivery, or messenger service. The hours of operation for the OSHA Docket Office are 8:15 a.m.–4:45 p.m., e.t.

4. *Instructions:* All submissions must include the Agency name and the OSHA docket number (OSHA–2014–0011). OSHA places comments and other materials, including any personal information, in the public docket without revision, and these materials will be available online at *http://www.regulations.gov.* Therefore, the Agency cautions commenters about submitting statements they do not want made available to the public, or submitting comments that contain personal information (either about themselves or others) such as Social Security numbers, birth dates, and medical data.

5. *Docket:* To read or download submissions or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

6. *Copies of this* ***Federal Register*** *notice.* Electronic copies of the **Federal Register** notice are available at *http://www.regulations.gov.* This **Federal Register** notice, as well as new releases and other relevant information, also are available at OSHA's Web page at *http://www.osha.gov.*

7. *Extension of comment period:* Submit requests for an extension of the comment period on or before March 13, 2015 to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655,

Washington, DC 20210, or by fax to (202) 693–1644.

8. *Hearing requests.* According to 29 CFR 1905.15, hearing requests must include: (1) A short and plain statement detailing how the variance would affect the requesting party; (2) a specification of any statement or representation in the variance application that the commenter denies, and a concise summary of the evidence adduced in support of each denial; and (3) any views or arguments on any issue of fact or law present in the variance application.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3647, Washington, DC 20210; telephone: (202) 693–1999; email: *Meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Acting Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210; phone: (202) 693–2110 or email: *robinson.kevin@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Notice of Application

On April 3, 2014, Impregilo Healy Parsons Joint Venture, (''IHP JV'' or ''the applicant''), 2600 Independence Avenue SE, Washington, DC 20003, submitted an application for a permanent variance and interim order under Section 6(d) of the Occupational Safety and Health Act of 1970 (''OSH Act''; 29 U.S.C. 655) and 29 CFR 1905.11 (''Variances and other relief under section 6(d)'') from several provisions of the OSHA standard that regulates work in compressed air at 29 CFR 1926.803. IHP JV also requested an interim order pending OSHA's decision on the application for a variance (Exhibit OSHA–2014–0011–0002, Request for Variance). Specifically, the applicant seeks a variance from the provisions of the standard that: (1) Prohibit compressed-air worker exposure to pressures exceeding 50 pounds per square inch (p.s.i.) except in an emergency (29 CFR 1926.803(e)(5)); [1] (2) require the use of the decompression values specified in decompression tables in Appendix A of the compressed-air standard for construction (29 CFR 1926.803(f)(1)); and (3) require the use of automated operational controls and a special decompression chamber (29 CFR 1926.803(g)(1)(iii) and .803(g)(1)(xvii), respectively).

According to its application, IHP JV is currently the general contractor for the District of Columbia Water and Sewer Authority's (''DC Water'') project to construct the Anacostia River tunnel. The Anacostia River tunnel project design requires the ability to safely perform hyperbaric interventions in compressed air at pressures higher than allowed in the existing OSHA standard 29 CFR 1926.803(e)(5) which states: ''No employee shall be subjected to pressure exceeding 50 (p.s.i.g.) except in emergency'' (see footnote 1).

The applicant is a contractor that works on complex tunnel projects using recently developed equipment and procedures for soft-ground tunneling. The applicant's workers engage in the construction of subaqueous tunnels below the water table through soft soils consisting of clay, silt, and sand using advanced shielded mechanical excavation techniques in conjunction with an Earth Pressure Balanced Tunnel Boring Machine (EPBTBM).

IHP JV employs specially trained personnel for the construction of the tunnel, and states that this construction project will use shielded mechanical-excavation techniques. IHP JV asserts that its workers perform hyperbaric interventions at pressures greater than 50 p.s.i.g. in the excavation chamber of the EPBTBM. The hyperbaric interventions consist of conducting inspections and maintenance work on the cutter-head structure and cutting tools of the EPBTBM.

II. The Variance Application

A. Background

IHP JV asserts that innovations in tunnel excavation, specifically with EPBTBMs, have, in most cases, eliminated the need to pressurize the entire tunnel. This technology negates the requirement that all members of a tunnel-excavation crew work in compressed air while excavating the tunnel. These advances in technology modified substantially the methods used by the construction industry to excavate subaqueous tunnels compared to the caisson work regulated by the current OSHA compressed-air standard for construction at 29 CFR 1926.803. Such advances reduce the number of workers exposed, and the total duration of exposure, to hyperbaric pressure during tunnel construction.

Using shielded mechanical-excavation techniques, in conjunction with precast concrete tunnel liners and backfill grout, EPBTBMs provide methods to achieve the face pressures required to maintain a stabilized tunnel face through various geologies, and isolate that pressure to the forward section (the working chamber) of the EPBTBM. Interventions in the working chamber take place only after halting tunnel excavation and preparing the machine and crew for an intervention. Interventions occur to inspect or maintain the mechanical-excavation components located in the working chamber. Maintenance conducted in the working chamber includes changing replaceable cutting tools and disposable wear bars, and, in rare cases, repairing structural damage to the cutter head.

In addition to innovations in tunnel-excavation methods, research conducted after OSHA published its compressed-air standard for construction in 1971 resulted in advances in hyperbaric medicine. In this regard, the applicant asserts that the use of decompression protocols incorporating oxygen is more efficient, effective, and safer for tunnel workers than compliance with the existing OSHA standard (29 CFR part 1926, subpart S, Appendix A decompression tables). According to the applicant, contractors routinely and safely expose employees performing interventions in the working chamber of EPBTBMs to hyperbaric pressures up to 75 p.s.i.g., which is 50% higher than maximum pressure specified by the existing OSHA standard (see 29 CFR 1926.803(e)(5)). The applicant asserts that these hyperbaric exposures are possible because of advances in hyperbaric technology, a better understanding of hyperbaric medicine, and the development of a project-specific HOM (Hyperbaric Operations Manual) that requires specialized medical support and hyperbaric supervision to provide assistance to a team of specially trained man-lock attendants and hyperbaric workers.

The applicant contends that the alternative safety measures included in its application provide its workers with a place of employment that is at least as safe and healthful as they would obtain under the existing provisions of OSHA's compressed-air standard for construction. The applicant certifies that it provided employee representatives of affected workers with

[1] The decompression tables in Appendix A of subpart S express the maximum working pressures as pounds per square inch gauge (p.s.i.g.), with a maximum working pressure of 50 p.s.i.g. Therefore, throughout this notice, OSHA expresses the 50 p.s.i. value specified by § 1926.803(e)(5) as 50 p.s.i.g., consistent with the terminology in Appendix A, Table 1 of subpart S.

a copy of the variance application.[2] The applicant also certifies that it notified its workers of the variance application by posting, at prominent locations where it normally posts workplace notices, a summary of the application and information specifying where the workers can examine a copy of the application. In addition, the applicant informed its workers and their representatives of their rights to petition the Assistant Secretary of Labor for Occupational Safety and Health for a hearing on the variance application.

B. Variance From Paragraph (e)(5) of 29 CFR 1926.803, Prohibition of Exposure to Pressure Greater Than 50 p.s.i.g. (see Footnote 1)

The applicant states that it may perform hyperbaric interventions at pressures greater than 50 p.s.i.g. in the working chamber of the EPBTBM; this pressure exceeds the pressure limit of 50 p.s.i.g. specified for nonemergency purposes by 29 CFR 1926.803(e)(5). The EPBTBM has twin man locks, with each man lock having two compartments. This configuration allows workers to access the man locks for compression and decompression, and medical personnel to access the man locks if required in an emergency.

EPBTBMs are capable of maintaining pressure at the tunnel face, and stabilizing existing geological conditions, through the controlled use of propel cylinders, a mechanically driven cutter head, bulkheads within the shield, ground-treatment foam, and a screw conveyor that moves excavated material from the working chamber. As noted earlier, the forward-most portion of the EPBTBM is the working chamber, and this chamber is the only pressurized segment of the EPBTBM. Within the shield, the working chamber consists of two sections: the staging chamber and the forward working chamber. The staging chamber is the section of the working chamber between the man-lock door and the entry door to the forward working chamber. The forward working chamber is immediately behind the cutter head and tunnel face.

The applicant will pressurize the working chamber to the level required to maintain a stable tunnel face. Pressure in the staging chamber ranges from atmospheric (no increased pressure) to a maximum pressure equal to the pressure in the working chamber. The applicant asserts that most of the hyperbaric interventions will be at or near atmospheric pressure. However, the applicant maintains that they may have to perform interventions at pressures up to 52 p.s.i.g.

During interventions, workers enter the working chamber through one of the twin man locks that open into the staging chamber. To reach the forward part of the working chamber, workers pass through a door in a bulkhead that separates the staging chamber from the forward working chamber. The maximum crew size allowed in the forward working chamber is three. At certain hyperbaric pressures (*i.e.,* when decompression times are greater than work times), the twin man locks allow for crew rotation. During crew rotation, one crew can be compressing or decompressing while the second crew is working. Therefore, the working crew always has an unoccupied man lock at its disposal.

The applicant developed a project-specific HOM for the Anacostia River tunnel project (Exhibit OSHA–2014–0011–0003, IHP JV Project-Specific HOM) that describes in detail the hyperbaric procedures and required medical examinations used during the tunnel-construction project. The HOM is project-specific, and discusses standard operating procedures and emergency and contingency procedures. The procedures include using experienced and knowledgeable man-lock attendants who have the training and experience necessary to recognize and treat decompression illnesses and injuries. The attendants are under the direct supervision of the hyperbaric supervisor and attending physician. In addition, procedures include medical screening and review of prospective compressed-air workers (CAWs). The purpose of this screening procedure is to vet prospective CAWs with medical conditions (*e.g.,* deep vein thrombosis, poor vascular circulation, and muscle cramping) that could be aggravated by sitting in a cramped space (*e.g.,* a man lock) for extended periods or by exposure to elevated pressures and compressed gas mixtures. A transportable recompression chamber (shuttle) is available to extract workers from the hyperbaric working chamber for emergency evacuation and medical treatment; the shuttle attaches to the topside medical lock, which is a large recompression chamber. The applicant believes that the procedures included in the HOM provide safe work conditions when interventions are necessary, including interventions above 50 p.s.i.g.

C. Variance From Paragraph (f)(1) of 29 CFR 1926.803, Requirement To Use OSHA Decompression Tables

OSHA's compressed-air standard for construction requires decompression in accordance with the decompression tables in Appendix A of 29 CFR part 1926, subpart S (see 29 CFR 1926.803(f)(1)). As an alternative to the OSHA decompression tables, the applicant proposes to use newer decompression schedules that supplement breathing air used during decompression with pure oxygen. The applicant asserts that these decompression protocols are safer for tunnel workers than the decompression protocols specified in Appendix A of 29 CFR part 1926, subpart S. Accordingly, the applicant proposes to use the 1992 French Decompression Tables to decompress CAWs after they exit the hyperbaric conditions in the working chamber.

Depending on the maximum working pressure and exposure times, the 1992 French Decompression Tables provide for air decompression with or without oxygen. IHP JV asserts that oxygen decompression has many benefits, including reducing decompression time by about 33 percent, and significantly lowering the rate of decompression illness (DCI), compared to the air-decompression tables in Appendix A of 29 CFR part 1926, subpart S. In addition, the HOM requires a physician certified in hyperbaric medicine to manage the medical condition of CAWs during hyperbaric exposures and decompression. A trained and experienced man-lock attendant also will be present during hyperbaric exposures and decompression. This man-lock attendant will operate the hyperbaric system to ensure compliance with the specified decompression table. A hyperbaric supervisor (competent person), trained in hyperbaric operations, procedures, and safety, will directly oversee all hyperbaric interventions, and ensure that staff follow the procedures delineated in the HOM or by the attending physician.

The applicant asserts that at higher hyperbaric pressures, decompression times exceed 75 minutes. The HOM establishes protocols and procedures that provide the basis for alternate means of protection for CAWs under these conditions. Accordingly, based on these protocols and procedures, the applicant requests to use the 1992 French Decompression Tables for hyperbaric interventions up to 52 p.s.i.g. for the Anacostia River tunnel project. The applicant is committed to follow the decompression procedures described in the project-specific HOM during these interventions.

[2] See the definition of ''Affected employee or worker'' in section V. D.

D. Variance From Paragraph (g)(1)(iii) of 29 CFR 1926.803, Automatically Regulated Continuous Decompression

According to the applicant, breathing air under hyperbaric conditions increases the amount of nitrogen gas dissolved in a CAW's tissues. The greater the hyperbaric pressure under these conditions, and the more time spent under the increased pressure, the greater the amount of nitrogen gas dissolved in the tissues. When the pressure decreases during decompression, tissues release the dissolved nitrogen gas into the blood system, which then carries the nitrogen gas to the lungs for elimination through exhalation. Releasing hyperbaric pressure too rapidly during decompression can increase the size of the bubbles formed by nitrogen gas in the blood system, resulting in DCI, commonly referred to as ''the bends.'' This description of the etiology of DCI is consistent with current scientific theory and research on the issue (see footnote 11 in this notice discussing a 1985 NIOSH report on DCI).

The 1992 French Decompression Tables proposed for use by the applicant provide for stops during worker decompression (*i.e.,* staged decompression) to control the release of nitrogen gas from tissues into the blood system. Studies show that staged decompression, in combination with other features of the 1992 French Decompression Tables such as the use of oxygen, result in a lower incidence of DCI than the OSHA decompression requirements of 29 CFR 1926.803, which specify the use of automatically regulated continuous decompression (see footnotes 8 through 15 in this notice for references to these studies).[3] In addition, the applicant asserts that staged decompression is at least as effective as an automatic controller in regulating the decompression process because:

1. A hyperbaric supervisor (a competent person experienced and trained in hyperbaric operations, procedures, and safety) directly supervises all hyperbaric interventions and ensures that the man-lock attendant, who is a competent person in the manual control of hyperbaric systems, follows the schedule specified in the decompression tables, including stops; and

2. The use of the 1992 French Decompression Tables for staged decompression offers an equal or better level of management and control over the decompression process than an automatic controller and results in lower occurrences of DCI.

Accordingly, the applicant is applying for a permanent variance from the OSHA standard at 29 CFR 1926.803(g)(1)(iii), which requires automatic controls to regulate decompression. As noted above, the applicant is committed to conduct the staged decompression according to the 1992 French Decompression Tables under the direct control of the trained man-lock attendant and under the oversight of the hyperbaric supervisor.

E. Variance From Paragraph (g)(1)(xvii) of 29 CFR 1926.803, Requirement of Special Decompression Chamber

The OSHA compressed-air standard for construction requires employers to use a special decompression chamber when total decompression time exceeds 75 minutes (see 29 CFR 1926.803(g)(1)(xvii)). Another provision of OSHA's compressed-air standard calls for locating the special decompression chamber adjacent to the man lock on the atmospheric pressure side of the tunnel bulkhead (see 29 CFR 1926.803(g)(2)(vii)). However, since only the working chamber of the EPBTBM is under pressure, and only a few workers out of the entire crew are exposed to hyperbaric pressure, the man locks (which, as noted earlier, connect directly to the working chamber) are of sufficient size to accommodate the exposed workers. In addition, available space in the EPBTBM does not allow for an additional special decompression lock. Again, the applicant uses the man locks, each of which adequately accommodates a three-member crew, for this purpose when decompression lasts up to 75 minutes. When decompression exceeds 75 minutes, crews can open the door connecting the two compartments in each man lock during decompression stops or exit the man lock and move into the staging chamber where additional space is available. This alternative enables CAWs to move about and flex their joints to prevent neuromuscular problems during decompression.

F. Multi-State Variance

As stated earlier in this notice, IHP JV applied for a permanent variance and interim order for its Anacostia River tunnel project only. The Anacostia River tunnel project is located entirely in the District of Columbia and thus under Federal OSHA's exclusive jurisdiction. Therefore, any variance OSHA grants IHP JV will have effect only in the District of Columbia.

Twenty-seven state safety and health plans have been approved by OSHA under section 18 of the (OSH) Act.[4] As part of the permanent variance process, the Directorate of Cooperative and State Programs will notify the State Plans of IHP JV's variance application and grant of the Anacostia River tunnel project interim order.

Additionally, OSHA notes that four State Plans have previously granted sub-aqueous tunnel construction variances and imposed different or additional requirements and conditions (California, Nevada, Oregon, and Washington). California also promulgated new standards[5] for similar sub-aqueous tunnel construction work.

III. Description of the Conditions Specified by the Application for a Permanent Variance

This section describes the alternative means of compliance with 29 CFR 1926.803(e)(5), (f)(1), (g)(1)(iii), and (g)(1)(xvii) and provides additional detail regarding the proposed conditions that form the basis of IHP JV's application for a permanent variance.

Proposed Condition A: Scope

The scope of the permanent variance limits coverage to the work situations specified under this proposed condition. Clearly defining the scope of the permanent variance provides IHP JV, IHP JV's employees, and OSHA with necessary information regarding the

[3] In the study cited in footnote 9 of this notice, starting at page 338, Dr. Eric Kindwall notes that the use of automatically regulated continuous decompression in the Washington State safety standards for compressed-air work (from which OSHA derived its decompression tables) was at the insistence of contractors and the union, and against the advice of the expert who calculated the decompression table and recommended using staged decompression. Dr. Kindwall then states, ''Continuous decompression is inefficient and wasteful. For example, if the last stage from 4 psig . . . to the surface took 1 h, at least half the time is spent at pressures less than 2 psig . . . , which provides less and less meaningful bubble suppression . . . '' In addition, the report referenced in footnote 5 under the section titled, ''Background on the Need for Interim Decompression Tables'' addresses the continuous-decompression protocol in the OSHA compressed-air standard for construction, noting that ''[a]side from the tables for saturation diving to deep depths, no other widely used or officially approved diving decompression tables use straight line, continuous decompressions at varying rates. Stage decompression is usually the rule, since it is simpler to control.''

[4] Five State Plans (Connecticut, Illinois, New Jersey, New York, and the Virgin Islands) limit their occupational safety and health authority to state and local employers only. State Plans that exercise their occupational safety and health authority over both public- and private-sector employers are: Alaska, Arizona, California, Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington, and Wyoming.

[5] See California Code of Regulations, Title 8, Subchapter 7, Group 26, Article 154, available at *http://www.dir.ca.gov/title8/sb7g26a154.html.*

work situations in which the proposed permanent variance would apply.

According to 29 CFR 1905.11, an employer (or class or group of employers [6]) may request a permanent variance for a specific workplace or workplaces (multiple sites). If granted, the variance applies to the specific employer(s) that submitted the application. In this instance, if OSHA were to grant a permanent variance, it would apply to the IHP JV's Anacostia River tunnel project only. As a result, it is important to understand that the variance would not apply to any other employers such as other joint ventures the applicant may undertake in the future. However, the variance rules of practice do contain provisions for future modification of permanent variances. Under the provisions of 29 CFR 1905.13, an applicant may submit an application to modify or amend a permanent variance to add or include additional employers for the project.

Proposed Condition B: Application

This proposed condition specifies the circumstances under which the permanent variance would be in effect, notably only for hyperbaric work performed during interventions. The proposed condition places clear limits on the circumstances under which the applicant can expose its employees to hyperbaric pressure.

Proposed Condition C: List of Abbreviations

Proposed condition C defines a number of abbreviations used in the proposed permanent variance. OSHA believes that defining these abbreviations serves to clarify and standardize their usage, thereby enhancing the applicant's and its employees' understanding of the conditions specified by the proposed permanent variance.

Proposed Condition D: Definitions

The proposed condition defines a series of terms, mostly technical terms, used in the proposed permanent variance to standardize and clarify their meaning. Defining these terms serves to enhance the applicant's and its employees' understanding of the conditions specified by the interim order and proposed permanent variance.

Proposed Condition E: Safety and Health Practices

This proposed condition requires the applicant to develop and submit to OSHA an HOM specific to the Anacostia River tunnel project at least six months before using the EPBTBM for tunneling operations. Additionally, the proposed condition includes a series of related hazard prevention and control requirements and methods (*e.g.,* decompression tables, job hazard analyses (JHA), operations and inspections checklists, incident investigation, recording and notification to OSHA of recordable hyperbaric injuries and illnesses, etc.) designed to ensure the continued effective functioning of the hyperbaric equipment and operating system.

Review of the HOM enables OSHA to: (1) Determine that the safety and health instructions and measures it specifies would be appropriate and would adequately protect the safety and health of the CAWs; and (2) request the applicant to revise or modify the HOM if it finds that the hyperbaric safety and health procedures are not suitable for the specific project and would not adequately protect the safety and health of the CAWs. Once approved, the project specific HOM becomes part of the variance, thus enabling OSHA to enforce its safety and health procedures and measures.[7]

Proposed Condition F: Communication

Proposed condition F would require the applicant to develop and implement an effective system of information sharing and communication. Effective information sharing and communication ensures that affected workers receive updated information regarding any safety-related hazards and incidents, and corrective actions taken, prior to the start of each shift. The condition also requires the applicant to ensure that reliable means of emergency communications are available and maintained for affected workers and support personnel during hyperbaric operations. Availability of such reliable means of communications would enable affected workers and support personnel to respond quickly and effectively to hazardous conditions or emergencies that may develop during EPBTBM operations.

Proposed Condition G: Worker Qualification and Training

This proposed condition would require the applicant to develop and implement an effective qualification and training program for affected workers. The condition specifies the factors that an affected worker must know to perform safely during hyperbaric operations, including how to enter, work in, and exit from hyperbaric conditions under both normal and emergency conditions. Having well-trained and qualified workers performing hyperbaric intervention work ensures that they recognize, and respond appropriately to, hyperbaric safety and health hazards. These qualification and training requirements enable affected workers to cope effectively with emergencies, as well as the discomfort and physiological effects of hyperbaric exposure, thereby preventing injury, illness, and fatalities among workers.

Paragraph (2)(e) of this proposed condition also would require the applicant to provide affected workers with information they can use to contact the appropriate healthcare professionals if they believe that they are developing hyperbaric-related health effects. This requirement provides for early intervention and treatment of DCI and other health effects resulting from hyperbaric exposure, thereby reducing the potential severity of these effects.

Proposed Condition H: Inspections, Tests, and Accident Prevention

Proposed condition H would require the applicant to develop, implement, and operate a program of frequent and regular inspections of the EPBTBM's hyperbaric equipment and support systems, and associated work areas. This condition would help to ensure the safe operation and physical integrity of the equipment and work areas necessary to conduct hyperbaric operations. The condition would also enhance worker safety by reducing the risk of hyperbaric-related emergencies.

Paragraph (3) of this proposed condition would require the applicant to document tests, inspections, corrective actions, and repairs involving the EPBTBM, and maintain these documents at the job site for the duration of the job. This requirement would provide the applicant with information needed to schedule tests and inspections to ensure the continued safe operation of the equipment and systems, and to determine that the actions taken to correct defects in hyperbaric equipment and systems were

[6] A class or group of employers (such as members of a trade alliance or association) may apply jointly for a variance provided an authorized representative for each employer signs the application and the application identifies each employer's affected facilities.

[7] Publication of this **Federal Register** notice announcing IHP JV's application for a permanent variance and grant of a project-specific interim order constitutes acknowledgement by OSHA of the acceptability of the HOM provided by IHP JV for the Anacostia River tunnel project.

appropriate, prior to returning them to service.

Proposed Condition I: Compression and Decompression

This proposed condition would require the applicant to consult with its designated medical advisor regarding special compression or decompression procedures appropriate for any unacclimated CAW. This proposed provision would ensure that the applicant consults with the medical advisor, and involves the medical advisor in the evaluation, development, and implementation of compression or decompression protocols appropriate for any CAW requiring acclimation to the hyperbaric conditions encountered during EPBTBM operations. Accordingly, CAWs requiring acclimation would have an opportunity to acclimate prior to exposure to these hyperbaric conditions. OSHA believes this condition would prevent or reduce adverse reactions among CAWs to the effects of compression or decompression associated with the intervention work they perform in the EPBTBM.

Proposed Condition J: Recordkeeping

Proposed condition J would require the applicant to maintain records of specific factors associated with each hyperbaric intervention. The information gathered and recorded under this provision, in concert with the information provided under proposed condition K (using OSHA 301 Incident Report form to investigate and record hyperbaric recordable injuries as defined by 29 CFR 1904.4, 1904.7, 1904.8 through 1904.12), would enable the applicant and OSHA to determine the effectiveness of the permanent variance in preventing DCI and other hyperbaric-related effects.[8]

Proposed Condition K: Notifications

Under this proposed condition, the applicant would be required, within specified periods, to notify OSHA of: (1) Any recordable injuries, illnesses, in-patient hospitalizations, amputations, loss of an eye, or fatality that occur as a result of hyperbaric exposures during EPBTBM operations; (2) provide OSHA with a copy of the incident investigation report (using OSHA 301 form) of these events; (3) include on the 301 form information on the hyperbaric conditions associated with the recordable injury or illness, the root-cause determination, and preventive and corrective actions identified and implemented by the applicant; and (4) its certification that it informed affected workers of the incident and the results of the incident investigation.

This proposed condition also would require the applicant to: notify the Office of Technical Programs and Coordination Activities (OTPCA) and the Baltimore/Washington DC Area Office within 15 working days should the applicant need to revise its HOM to accommodate changes in its compressed-air operations that affect its ability to comply with the conditions of the proposed permanent variance; and would provide OSHA's OTPCA and the Baltimore/Washington DC Area Office, at the end of the project, with a report evaluating the effectiveness of the decompression tables.

These notification requirements would enable the applicant, its employees, and OSHA to determine the effectiveness of the permanent variance in providing the requisite level of safety to the applicant's workers and, based on this determination, whether to revise or revoke the conditions of the proposed permanent variance. Timely notification would permit OSHA to take whatever action may be necessary and appropriate to prevent further injuries and illnesses. Providing notification to employees would inform them of the precautions taken by the applicant to prevent similar incidents in the future.

This proposed condition would also require the applicant to notify OSHA if it ceases to do business, has a new address or location for its main office, or transfers the operations covered by the proposed permanent variance to a successor company. In addition, the condition specifies that OSHA must approve the transfer of the permanent variance to a successor company. These requirements would allow OSHA to communicate effectively with the applicant regarding the status of the proposed permanent variance, and expedite the Agency's administration and enforcement of the permanent variance. Stipulating that an applicant would be required to have OSHA's approval to transfer a variance to a successor company would provide assurance that the successor company has knowledge of, and will comply with, the conditions specified by proposed permanent variance, thereby ensuring the safety of workers involved in performing the operations covered by the proposed permanent variance.

IV. Grant of Interim Order

As noted earlier, the applicant requested an interim order that would remain in effect until completion of the Anacostia River tunnel project, or until the Agency makes a decision on its application for a permanent variance. During this period, the applicant will fully comply with the conditions of the interim order as an alternative to complying with the requirements of 29 CFR 1926.803 (hereafter, ''the standard'') that:

1. Prohibit employers using compressed air under hyperbaric conditions from subjecting workers to pressure exceeding 50 p.s.i.g., except in emergency (29 CFR 1926.803(e)(5));
2. Require the use of decompression values specified by the decompression tables in Appendix A of the compressed-air standard (29 CFR 1926.803(f)(1)); and
3. Require the use of automated operational controls and a special decompression chamber (29 CFR 1926.803(g)(1)(iii) and .803(g)(1)(xvii), respectively).

After reviewing the application, OSHA preliminarily determined that:

1. IHP JV developed, and proposed to implement, effective alternative measures to the prohibition of using compressed air under hyperbaric conditions exceeding 50 p.s.i.g. The proposed alternative measures include use of engineering and administrative controls of the hazards associated with work performed in compressed-air conditions exceeding 50 p.s.i.g. while engaged in the construction of a subaqueous tunnel using advanced shielded mechanical-excavation techniques in conjunction with an EPBTBM. Prior to conducting interventions in the EPBTBM's pressurized working chamber, the applicant halts tunnel excavation and prepares the machine and crew to conduct the interventions. Interventions involve inspection, maintenance, or repair of the mechanical-excavation components located in the working chamber.
2. IHP JV developed, and proposed to implement, safe hyperbaric work procedures, emergency and contingency procedures, and medical examinations for the project's CAWs. The applicant compiled these standard operating procedures into a project-specific HOM. The HOM discusses the procedures and personnel qualifications for performing work safely during the compression and decompression phases of interventions. The HOM also specifies the

[8] See 29 CFR 1904 Recording and Reporting Occupational Injuries and Illnesses (*http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=STANDARDS&p_id=9631*); recordkeeping forms and instructions (*http://www.osha.gov/recordkeeping/RKform300pkg-fillable-enabled.pdf*); OSHA Recordkeeping Handbook (*http://www.osha.gov/recordkeeping/handbook/index.html*); and updates to OSHA's recordkeeping rule Web page ((79 FR 56130); *http://www.osha.gov/recordkeeping2014/index.html*)).

decompression tables the applicant proposes to use. Depending on the maximum working pressure and exposure times during the interventions, the tables provide for decompression using air, pure oxygen, or a combination of air and oxygen. The decompression tables also include delays or stops for various time intervals at different pressure levels during the transition to atmospheric pressure (*i.e.,* staged decompression). In all cases, a physician certified in hyperbaric medicine will manage the medical condition of CAWs during decompression. In addition, a trained and experienced man-lock attendant, experienced in recognizing decompression sickness or illnesses and injuries, will be present. Of key importance, a hyperbaric supervisor (competent person), trained in hyperbaric operations, procedures, and safety, will directly supervise all hyperbaric operations to ensure compliance with the procedures delineated in the project-specific HOM or by the attending physician.

3. IHP JV developed, and proposed to implement, a training program to instruct affected workers in the hazards associated with conducting hyperbaric operations.

4. IHP JV developed, and proposed to implement, an effective alternative to the use of automatic controllers that continuously decrease pressure to achieve decompression in accordance with the tables specified by the standard. The alternative includes using the 1992 French Decompression Tables for guiding staged decompression to achieve lower occurrences of DCI, using a trained and competent attendant for implementing appropriate hyperbaric entry and exit procedures, and providing a competent hyperbaric supervisor, and attending physician certified in hyperbaric medicine, to oversee all hyperbaric operations.

5. IHP JV developed, and proposed to implement, an effective alternative to the use of the special decompression chamber required by the standard. EPBTBM technology permits the tunnel's work areas to be at atmospheric pressure, with only the face of the EPBTBM (*i.e.,* the working chamber) at elevated pressure. The applicant limits interventions conducted in the working chamber to performing required inspection, maintenance, and repair of the cutting tools on the face of the EPBTBM. The EPBTBM's man lock and working chamber provide sufficient space for the maximum crew of three CAWs to stand up and move around, and safely accommodate decompression times up to 360 minutes. Therefore, OSHA preliminarily determined that the EPBTBM's man lock and working chamber function as effectively as the special decompression chamber required by the standard.

OSHA conducted a review of the scientific literature regarding decompression to determine whether the alternative decompression method (*i.e.,* the 1992 French Decompression Tables) the applicant proposed would provide a workplace as safe and healthful as that provided by the standard. Based on this review, OSHA preliminarily determined that decompressions conducted in tunneling operations performed with these tables [9] result in a lower occurrence of DCI than the decompression tables specified by the standard.[10] [11] [12]

The review conducted by OSHA found several research studies supporting the determination that the 1992 French Decompression Tables result in a lower rate of DCI than the decompression tables specified by the standard. For example, H.L. Anderson studied the occurrence of DCI at maximum hyperbaric pressures ranging from 4 p.s.i.g. to 43 p.s.i.g. during construction of the Great Belt Tunnel in Denmark (1992–1996); [13] this project used the 1992 French Decompression Tables to decompress the workers during part of the construction. Anderson observed 6 DCS cases out of 7,220 decompression events, and reported that switching to the 1992 French Decompression tables reduced the DCI incidence to 0.08%. The DCI incidence in the study by H.L. Andersen is substantially less than the DCI incidence reported for the decompression tables specified in Appendix A. OSHA found no studies in which the DCI incidence reported for the 1992 French Decompression Tables were higher than the DCI incidence reported for the OSHA decompression tables, nor did OSHA find any studies indicating that the 1992 French Decompression Tables were more hazardous to employees than the OSHA decompression tables.[14] Therefore, OSHA preliminarily concludes that the proposed use of the 1992 French Decompression Tables would protect workers at least as effectively as the OSHA decompression tables.

Based on a review of available evidence, the experience of State Plans that either granted variances (Nevada, Oregon, and Washington) [15] or promulgated a new standard (California) [16] for hyperbaric exposures occurring during similar subaqueous tunnel-construction work, and the information provided in the applicant's variance application, OSHA is issuing an interim order.

Under the interim order and variance application, instead of complying with the requirements of 29 CFR 1926.803(e)(5), (f)(1), (g)(1)(iii), and (g)(1)(xvii), IHP JV will: (1) Comply with the conditions listed below under ''Specific Conditions of the Interim Order and the Application for a Permanent Variance'' for the period between the date of this notice and completion of the Anacostia River tunnel project or the date OSHA publishes its final decision on IHP JV's application in the **Federal Register**; (2) comply fully with all other applicable provisions of 29 CFR part 1926; and (3) provide a copy of this **Federal Register**

[9] In 1992, the French Ministry of Labour replaced the 1974 French Decompression Tables with the 1992 French Decompression Tables, which differ from OSHA's decompression tables in Appendix A by using: (1) Staged decompression as opposed to continuous (linear) decompression; (2) decompression tables based on air or both air and pure oxygen; and (3) emergency tables when unexpected exposure times occur (up to 30 minutes above the maximum allowed working time).

[10] Kindwall, EP (1997). Compressed air tunneling and caisson work decompression procedures: development, problems, and solutions. *Undersea and Hyperbaric Medicine,* 24(4), pp. 337–345. This article reported 60 treated cases of DCI among 4,168 exposures between 19 and 31 p.s.i.g. over a 51-week contract period, for a DCI incidence of 1.44% for the decompression tables specified by the OSHA standard.

[11] Sealey, JL (1969). Safe exit from the hyperbaric environment: medical experience with pressurized tunnel operations. *Journal of Occupational Medicine,* 11(5), pp. 273–275. This article reported 210 treated cases of DCI among 38,600 hyperbaric exposures between 13 and 34 p.s.i.g. over a 32-month period, for an incidence of 0.54% for the decompression tables specified by the Washington State safety standards for compressed-air work, which are similar to the tables in the OSHA standard. Moreover, the article reported 51 treated cases of DCI for 3,000 exposures between 30 and 34 p.s.i.g., for an incidence of 1.7% for the Washington State tables.

[12] In 1985, the National Institute for Occupational Safety and Health (NIOSH) published a report entitled ''Criteria for Interim Decompression Tables for Caisson and Tunnel Workers''; this report reviewed studies of DCI and other hyperbaric-related injuries resulting from use of OSHA's tables. This report is available on NIOSH's Web site: *http://www.cdc.gov/niosh/topics/decompression/default.html.*

[13] Anderson HL (2002). Decompression sickness during construction of the Great Belt tunnel, Denmark. *Undersea and Hyperbaric Medicine,* 29(3), pp. 172–188.

[14] Le Péchon JC, Barre P, Baud JP, Ollivier F. (September 1996). Compressed air work—French tables 1992—operational results. *JCLP Hyperbarie Paris, Centre Medical Subaquatique Interentreprise, Marseille: Communication a l'EUBS,* pp. 1–5 (see Ex. OSHA–2014–0011–0004).

[15] These state variances are available in the docket: Exs. OSHA–2014–0011–0005 (Nevada), OSHA–2014–0011–0006 (Oregon), and OSHA–2014–0011–0007 (Washington).

[16] See California Code of Regulations, Title 8, Subchapter 7, Group 26, Article 154, available at *http://www.dir.ca.gov/title8/sb7g26a154.html.*

notice to all employees affected by the conditions, including the affected employees of other employers, using the same means it used to inform these employees of its application for a permanent variance. Additionally, this interim order will remain in effect until one of the following conditions occurs: (1) Completion of the IHP JV tunnel project; (2) OSHA publishes its final decision on the variance application in the **Federal Register**; or (3) OSHA modifies or revokes the interim order in accordance with 29 CFR 1905.13.

V. Specific Conditions of the Interim Order and the Application for a Permanent Variance

The following conditions apply to the interim order OSHA is granting to IHP JV. These conditions specify the alternative means of compliance with the requirements of paragraphs 29 CFR 1926.803(e)(5), (f)(1), (g)(1)(iii), and (g)(1)(xvii). In addition, the proposed conditions included in this notice specify the alternative means of compliance with the requirements of paragraphs 29 CFR 1926.803(e)(5), (f)(1), (g)(1)(iii), and (g)(1)(xvii) that IHP JV is proposing for its permanent variance. The proposed conditions would apply to all employees of IHP JV exposed to hyperbaric conditions. These proposed conditions would be: [17]

A. Scope

The permanent variance would apply only to work:

1. That occurs in conjunction with construction of the Anacostia River tunnel project, a subaqueous tunnel constructed using advanced shielded mechanical-excavation techniques and involving operation of an EPBTBM;
2. Performed under compressed-air and hyperbaric conditions up to 52 p.s.i.g. at the Anacostia River tunnel project;
3. In the EPBTBM's forward section (the working chamber) and associated hyperbaric chambers used to pressurize and decompress employees entering and exiting the working chamber;
4. Except for the requirements specified by 29 CFR 1926.803(e)(5), (f)(1), (g)(1)(iii), and (g)(1)(xvii), IHP JV would be required to comply fully with all other applicable provisions of 29 CFR part 1926; and
5. The interim order granted for the Anacostia River tunnel project will remain in effect until one of the following conditions occurs (1) completion of the Anacostia River tunnel project; or (2) OSHA modifies or revokes this interim order or grants IHP JV's request for a permanent variance in accordance with 29 CFR 1905.13.

B. Application

The permanent variance would apply only when IHP JV stops the tunnel-boring work, pressurizes the working chamber, and the CAWs either enter the working chamber to perform interventions (*i.e.,* inspect, maintain, or repair the mechanical-excavation components), or exit the working chamber after performing interventions.

C. List of Abbreviations

Abbreviations used throughout this proposed permanent variance would include the following:

1. CAW—Compressed-air worker
2. CFR—Code of Federal Regulations
3. DCI—Decompression Illness
4. EPBTBM—Earth Pressure Balanced Tunnel Boring Machine
5. HOM—Hyperbaric Operations and Safety Manual
6. JHA—Job hazard analysis
7. OSHA—Occupational Safety and Health Administration
8. OTPCA—Office of Technical Programs and Coordination Activities

D. Definitions

The following definitions would apply to this proposed permanent variance. These definitions would supplement the definitions in IHP JV's project-specific HOM.

1. *Affected employee or worker*—an employee or worker who is affected by the conditions of this proposed permanent variance, or any one of his or her authorized representatives. The term ''employee'' has the meaning defined and used under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 *et seq.*)

2. *Atmospheric pressure*—the pressure of air at sea level, generally 14.7 p.s.i.a., 1 atmosphere absolute, or 0 p.s.i.g.

3. *Compressed-air worker*—an individual who is specially trained and medically qualified to perform work in a pressurized environment while breathing air at pressures up to 52 p.s.i.g.

4. *Competent person*—an individual who is capable of identifying existing and predictable hazards in the surroundings or working conditions that are unsanitary, hazardous, or dangerous to employees, and who has authorization to take prompt corrective measures to eliminate them.[18]

5. *Decompression illness*—an illness (also called decompression sickness (DCS) or the bends) caused by gas bubbles appearing in body compartments due to a reduction in ambient pressure. Examples of symptoms of decompression illness include (but are not limited to): Joint pain (also known as the ''bends'' for agonizing pain or the ''niggles'' for sight pain); areas of bone destruction (termed dysbaric osteonecrosis); skin disorders (such as cutis marmorata, which causes a pink marbling of the skin); spinal cord and brain disorders (such as stroke, paralysis, paresthesia, and bladder dysfunction); cardiopulmonary disorders, such as shortness of breath; and arterial gas embolism (gas bubbles in the arteries that block blood flow).[19]

Note: Health effects associated with hyperbaric intervention but not considered symptoms of DCI can include: barotrauma (direct damage to air-containing cavities in the body such as ears, sinuses and lungs); nitrogen narcosis (reversible alteration in consciousness that may occur in hyperbaric environments and is caused by the anesthetic effect of certain gases at high pressure); and oxygen toxicity (a central nervous system condition resulting from the harmful effects of breathing molecular oxygen (O_2) at elevated partial pressures).

6. *Earth Pressure Balanced Tunnel Boring Machine*—the machinery used to excavate the tunnel.

7. *Hot work*—any activity performed in a hazardous location that may introduce an ignition source into a potentially flammable atmosphere.[20]

8. *Hyperbaric*—at a higher pressure than atmospheric pressure.

9. *Hyperbaric intervention*—a term that describes the process of stopping the EPBTBM and preparing and executing work under hyperbaric pressure in the working chamber for the purpose of inspecting, replacing, or repairing cutting tools and/or the cutterhead structure.

10. *Hyperbaric Operations Manual*—a detailed, project-specific health and safety plan developed and implemented by IHP JV for working in compressed air during the construction of the Anacostia River tunnel.

11. *Job hazard analysis*—an evaluation of tasks or operations to identify potential hazards and to determine the necessary controls.

[17] In these conditions, the future conditional form of the verb (*e.g.,* ''would'') pertains to the application for a permanent variance (designated as ''permanent variance''). Under the interim order, the applicant is required to comply with these conditions in lieu of complying with the requirements of 29 CFR 1926.803(e)(5), (f)(1), (g)(1)(iii), and (g)(1)(xvii).

[18] Adapted from 29 CFR 1926.32(f).

[19] See Appendix 10 of ''A Guide to the Work in Compressed Air Regulations 1996,'' published by the United Kingdom Health and Safety Executive available from NIOSH at *http://www.cdc.gov/niosh/docket/archive/pdfs/NIOSH-254/compReg1996.pdf.*

[20] Also see 29 CFR 1910.146(b).

12. *Man lock*—an enclosed space capable of pressurization, and used for compressing or decompressing any employee or material when either is passing into or out of a working chamber.

13. *Pressure*—a force acting on a unit area. Usually expressed as pounds per square inch (p.s.i.).

14. *p.s.i.*—pounds per square inch, a common unit of measurement of pressure; a pressure given in p.s.i. corresponds to absolute pressure.

15. *p.s.i.a*—pounds per square inch absolute, or absolute pressure, is the sum of the atmospheric pressure and gauge pressure. At sea-level, atmospheric pressure is approximately 14.7 p.s.i. Adding 14.7 to a pressure expressed in units of p.s.i.g. will yield the absolute pressure, expressed as p.s.i.a.

16. *p.s.i.g.*—pounds per square inch gauge, a common unit of pressure; pressure expressed as p.s.i.g. corresponds to pressure relative to atmospheric pressure. At sea-level, atmospheric pressure is approximately 14.7 p.s.i. Subtracting 14.7 from a pressure expressed in units of p.s.i.a. yields the gauge pressure, expressed as p.s.i.g.

17. *Qualified person*—an individual who, by possession of a recognized degree, certificate, or professional standing, or who, by extensive knowledge, training, and experience, successfully demonstrates an ability to solve or resolve problems relating to the subject matter, the work, or the project.[21]

18. *Working chamber*—an enclosed space in the EPBTBM in which CAWs perform interventions, and which is accessible only through a man lock.

E. Safety and Health Practices

1. IHP JV would have to develop and implement a project-specific HOM, and submit the HOM to OSHA for approval at least six months before using the EPBTBM. IHP JV would have to receive a written acknowledgement from OSHA regarding the acceptability of the HOM.[22] The HOM would provide the governing safety and health requirements regarding hyperbaric exposures during the tunnel-construction project.

2. IHP JV would have to implement the safety and health instructions included in the manufacturer's operations manuals for the EPBTBM, and the safety and health instructions provided by the manufacturer for the operation of decompression equipment.

3. IHP JV would have to use air as the only breathing gas in the working chamber.

4. IHP JV would have to use the 1992 French Decompression Tables for air, air-oxygen, and oxygen decompression specified in the HOM, specifically, the tables titled ''French Regulation Air Standard Tables.''

5. IHP JV would have to equip man locks used by its employees with an oxygen-delivery system as specified by the HOM. IHP JV would be required to not store oxygen or other compressed gases used in conjunction with hyperbaric work in the tunnel.

6. Workers performing hot work under hyperbaric conditions would have to use flame-retardant personal protective equipment and clothing.

7. In hyperbaric work areas, IHP JV would have to maintain an adequate fire-suppression system approved for hyperbaric work areas.

8. IHP JV would have to develop and implement one or more JHAs for work in the hyperbaric work areas, and review, periodically and as necessary (*e.g.,* after making changes to a planned intervention that affects its operation), the contents of the JHAs with affected employees. The JHAs would have to include all the job functions that the risk assessment[23] indicates are essential to prevent injury or illness.

9. IHP JV would have to develop a set of checklists to guide compressed-air work and ensure that employees follow the procedures required by this proposed permanent variance (including all procedures required by the HOM, which this proposed variance would incorporate by reference). The checklists would have to include all steps and equipment functions that the risk assessment indicates are essential to prevent injury or illness during compressed-air work.

10. IHP JV would have to ensure that the safety and health provisions of the HOM adequately protect the workers of all contractors and subcontractors involved in hyperbaric operations.[24]

F. Communication

1. Prior to beginning a shift, IHP JV would have to implement a system that informs workers exposed to hyperbaric conditions of any hazardous occurrences or conditions that might affect their safety, including hyperbaric incidents, gas releases, equipment failures, earth or rock slides, cave-ins, flooding, fires, or explosions.

2. IHP JV would have to provide a power-assisted means of communication among affected workers and support personnel in hyperbaric conditions where unassisted voice communication is inadequate.

(a) IHP JV would have to use an independent power supply for powered communication systems, and these systems would have to operate such that use or disruption of any one phone or signal location will not disrupt the operation of the system from any other location.

(b) IHP JV would have to test communication systems at the start of each shift and as necessary thereafter to ensure proper operation.

G. Worker Qualifications and Training

IHP JV would have to:

1. Ensure that each affected worker receives effective training on how to safely enter, work in, exit from, and undertake emergency evacuation or rescue from, hyperbaric conditions, and document this training.

2. Provide effective instruction, before beginning hyperbaric operations, to each worker who performs work, or controls the exposure of others, in hyperbaric conditions, and document this instruction. The instruction would have to include topics such as:

(a) The physics and physiology of hyperbaric work;

(b) Recognition of pressure-related injuries;

(c) Information on the causes and recognition of the signs and symptoms associated with decompression illness, and other hyperbaric intervention-related health effects (*e.g.,* barotrauma, nitrogen narcosis, and oxygen toxicity);

(d) How to avoid discomfort during compression and decompression; and

(e) Information the workers can use to contact the appropriate healthcare professionals should the workers have concerns that they may be experiencing adverse health effects from hyperbaric exposure.

3. Repeat the instruction specified in paragraph (b) of this proposed condition periodically and as necessary (*e.g.,* after making changes to its hyperbaric operations).

4. When conducting training for its hyperbaric workers make this training available to OSHA personnel and notify the OTPCA at OSHA's national office and OSHA's nearest affected Area Office before the training takes place.

[21] Adapted from 29 CFR 1926.32(m).

[22] This notice constitutes such acknowledgement by OSHA of the acceptability of the HOM provided by IHP JV for the Anacostia River tunnel project.

[23] See ANSI/AIHA Z10–2012, American National Standard for Occupational Health and Safety Management Systems, for reference.

[24] See ANSI/ASSE A10.33–2011, American National Standard for Construction and Demolition Operations—Safety and Health Program Requirements for Multi-Employer Projects, for reference.

H. Inspections, Tests, and Accident Prevention

1. IHP JV would have to initiate and maintain a program of frequent and regular inspections of the EPBTBM's hyperbaric equipment and support systems (such as temperature control, illumination, ventilation, and fire-prevention and fire-suppression systems), and hyperbaric work areas, as required under 29 CFR 1926.20(b)(2) by:

(a) Developing a set of checklists to be used by a competent person in conducting weekly inspections of hyperbaric equipment and work areas; and

(b) Ensuring that a competent person conducts daily visual checks and weekly inspections of the EPBTBM.

2. If the competent person determines that the equipment constitutes a safety hazard, IHP JV would have to remove the equipment from service until it corrects the hazardous condition and has the correction approved by a qualified person.

3. IHP JV would have to maintain records of all tests and inspections of the EPBTBM, as well as associated corrective actions and repairs, at the job site for the duration of the job.

I. Compression and Decompression

IHP JV would have to consult with its attending physician concerning the need for special compression or decompression exposures appropriate for CAWs not acclimated to hyperbaric exposure.

J. Recordkeeping

IHP JV would have to maintain a record of any recordable injuries, illnesses, in-patient hospitalizations, amputations, loss of an eye, or fatality (as defined by 29 CFR part 1904 Recording and Reporting Occupational Injuries and Illnesses), resulting from exposure of an employee to hyperbaric conditions by completing the OSHA 301 Incident Report form and OSHA 300 Log of Work Related Injuries and Illnesses.

Note: Examples of important information to include on the OSHA 301 Incident Report form (along with the corresponding question on the form) would have to address the following: The task performed (Question (Q) 14); an estimate of the CAW's workload (Q 14); the composition of the gas mixture; the pressure worked at (Q 14); temperature in the work and decompression environments (Q 14); did something unusual occur during the task or decompression (Q 14); time of symptom onset (Q 15); duration of time between decompression and onset of symptoms (Q 15); nature and duration of symptoms (Q 16); a medical summary of the illness or injury (Q 16); duration of the hyperbaric intervention (Q 17); any possible contributing factors (Q 17); the number of prior interventions completed by injured or ill CAW (Q 17); the number of prior interventions completed by injured or ill CAW at that pressure (Q 17); the contact information for the treating healthcare provider (Q 17); and the date and time of last hyperbaric exposure for this CAW.

In addition to completing the OSHA 301 Incident Report form and OSHA 300 Log of Work Related Injuries and Illnesses, IHP JV would have to maintain records of:

1. The date, times (*e.g.,* began compression, time spent compressing, time performing intervention, time spent decompressing), and pressure for each hyperbaric intervention.

2. The name of each individual worker exposed to hyperbaric pressure and the decompression protocols and results for each worker.

3. The total number of interventions and the amount of hyperbaric work time at each pressure.

4. The post-intervention physical assessment of each individual CAW for signs and symptoms of decompression illness, barotrauma, nitrogen narcosis, oxygen toxicity or other health effects associated with work in compressed air or mixed gasses for each hyperbaric intervention.

K. Notifications

1. To assist OSHA in administering the conditions specified herein, IHP JV would have to:

(a) Notify the OTPCA and the Baltimore/Washington DC Area Office of any recordable injuries, illnesses, in-patient hospitalizations, amputations, loss of an eye, or fatality (by submitting the completed OSHA 301 Incident Report form [25]) resulting from exposure of an employee to hyperbaric conditions including those that do not require recompression treatment (*e.g.,* nitrogen narcosis, oxygen toxicity, barotrauma), but still meet the recordable injury or illness criteria (of 29 CFR 1904). The notification would have to be made within 8 hours of the incident, or after becoming aware of a recordable injury or illness, and a copy of the incident investigation (OSHA 301) would have to be provided within 24 hours of the incident, or after becoming aware of a recordable injury or illness. In addition to the information required by the OSHA 301, the incident-investigation report would have to include a root-cause determination, and the preventive and corrective actions identified and implemented.

(b) Provide certification within 15 days of the incident that it informed affected workers of the incident and the results of the incident investigation (including the root-cause determination and preventive and corrective actions identified and implemented).

(c) Notify the OTPCA and the Baltimore/Washington DC Area Office within 15 working days and in writing, of any change in the compressed-air operations that affects IHP JV's ability to comply with the proposed conditions specified herein.

(d) Upon completion of the Anacostia River tunnel project, evaluate the effectiveness of the decompression tables used throughout the project, and provide a written report of this evaluation to the OTPCA and the Baltimore/Washington DC Area Office.

Note: The evaluation report would have to contain summaries of: (1) The number, dates, durations, and pressures of the hyperbaric interventions completed; (2) decompression protocols implemented (including composition of gas mixtures (air and/or oxygen), and the results achieved; (3) the total number of interventions and the number of hyperbaric incidents (decompression illnesses and/or health effects associated with hyperbaric interventions as recorded on OSHA 301 and 300 forms, and relevant medical diagnoses and treating physicians' opinions); and (4) root-causes, and preventive and corrective actions identified and implemented.

(e) To assist OSHA in administering the proposed conditions specified herein, inform the OTPCA and the Baltimore/Washington DC Area Office as soon as possible after it has knowledge that it will:

(i) Cease to do business;

(ii) Change the location and address of the main office for managing the tunneling operations specified by the project-specific HOM; or

(iii) Transfer the operations specified herein to a successor company.

(f) Notify all affected employees of this proposed permanent variance by the same means required to inform them of its application for a variance.

2. OSHA would have to approve the transfer of the proposed permanent variance to a successor company.

VI. Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW., Washington, DC 20210, authorized the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to 29 U.S.C. 655(d), Secretary of Labor's Order No.

[25] See footnote 8.

1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1905.11.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2015–02836 Filed 2–10–15; 8:45 am]

BILLING CODE 4510–26–P

LIBRARY OF CONGRESS

Copyright Royalty Board

[Docket No. 14–CRB–0011–SD (2013)]

Distribution of 2013 Satellite Royalty Funds

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Notice requesting comments.

SUMMARY: The Copyright Royalty Judges solicit comments on a motion of Phase I claimants for partial distribution of 2013 satellite royalty funds.

DATES: Comments are due on or before March 13, 2015.

ADDRESSES: Interested parties may submit comments electronically to *crb@loc.gov.* In the alternative, interested parties may send an original, five copies, and an electronic copy on a CD either by mail or hand delivery. Commenters shall not use multiple means of transmission. Interested parties may not deliver comments by an overnight delivery service other than the U.S. Postal Service Express Mail. If commenters use U.S. mail (including overnight delivery), the appropriate address is: Copyright Royalty Board, P.O. Box 70977, Washington, DC 20024–0977. If a private party delivers comments by hand, they must be brought to the Library of Congress, James Madison Memorial Building, LM–401, 101 Independence Avenue SE., Washington, DC 20559–6000. If a party delivers comments by a commercial courier, the comments must go to the Congressional Courier Acceptance Site located at 2nd and D Street NE., Washington, DC, in an envelope addressed to: Copyright Royalty Board, Library of Congress, James Madison Memorial Building, LM–403, 101 Independence Avenue SE., Washington, DC 20559–6000.

FOR FURTHER INFORMATION CONTACT: Lakeshia Keys, Program Specialist, by telephone at (202) 707–7658 or email at *crb@loc.gov.*

SUPPLEMENTARY INFORMATION: Each year satellite systems must submit royalty payments to the Register of Copyrights as required by the statutory license set forth in section 119 of the Copyright Act for the retransmission to satellite subscribers of over-the-air television broadcast signals. *See* 17 U.S.C. 119(b). The Copyright Royalty Judges (Judges) oversee distribution of royalties to copyright owners whose works were included in a qualifying transmission and who timely filed a claim for royalties. Allocation of the royalties collected occurs in one of two ways. In the first instance, the Judges may authorize distribution in accordance with a negotiated settlement among all claiming parties. 17 U.S.C. 119(b)(5)(A), 801(b)(3)(A). If all claimants do not reach an agreement with respect to the royalties, the Judges must conduct a proceeding to determine the distribution of any royalties that remain in controversy. 17 U.S.C. 119(b)(5)(B), 801(b)(3)(B). Alternatively, the Judges may, on motion of claimants and on notice to all interested parties, authorize a partial distribution of royalties, reserving on deposit sufficient funds to resolve identified disputes. 17 U.S.C. 119(b)(5)(C), 801(b)(3)(C).

On January 21, 2015, representatives of the Phase I claimant categories (the ''Phase I Claimants'') [1] filed with the Judges a motion requesting a partial distribution amounting to 60% of the 2013 satellite royalty funds pursuant to section 801(b)(3)(C) of the Copyright Act. 17 U.S.C. 801(b)(3)(C). That section requires that, before ruling on the motion, the Judges publish a notice in the **Federal Register** seeking responses to the motion for partial distribution to ascertain whether any claimant entitled to receive the subject royalties has a reasonable objection to the requested distribution. Accordingly, this Notice seeks comments from interested claimants on whether any reasonable objection exists that would preclude the distribution of 60% of the 2013 satellite royalty funds to the Phase I Claimants. Parties making objection to the partial distribution must advise the Judges of the existence and extent of all their objections by the end of the comment period. The Judges will not consider any objections with respect to the partial distribution motion that come to their attention after the close of the comment period.

The Judges have caused the Motion of the Phase I Claimants for Partial Distribution to be posted on the Copyright Royalty Board Web site at *http://www.loc.gov/crb.*

Dated: February 5, 2015.

Suzanne M. Barnett,

Chief U.S. Copyright Royalty Judge.

[FR Doc. 2015–02777 Filed 2–10–15; 8:45 am]

BILLING CODE 1410–72–P

[1] The ''Phase I Claimants'' are Program Suppliers, Joint Sports Claimants, Broadcaster Claimants Group, Music Claimants (represented by American Society of Composers, Authors and Publishers, Broadcast Music, Inc., and SESAC, Inc.), and Devotional Claimants. In what has become known as ''Phase I'' of a satellite royalty distribution proceeding, the Judges allocate royalties among certain categories of broadcast programming that have been retransmitted by satellite systems. Traditionally, the categories seeking satellite royalties have been movies and syndicated television series, sports programming, commercial broadcaster-owned programming, religious programming, and music. In Phase II of a satellite royalty distribution proceeding, the Judges determine how the allocated royalties are to be distributed among claimants within each of the Phase I categories.

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act: Notice of Agency Meeting

TIME AND DATE: 10:00 a.m., Thursday, February 19, 2015.

PLACE: Board Room, 7th Floor, Room 7047,1775 Duke Street (All visitors must use Diagonal Road Entrance), Alexandria, VA 22314–3428.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. NCUA's Rules and Regulations, Regulatory Flexibility Act Definition of Small Entity for Consideration of Regulatory Relief.
2. Taunton Federal Credit Union (Taunton, MA), Request to Expand Community Charter.
3. National Credit Union Share Insurance Fund Quarterly Report.

FOR FURTHER INFORMATION CONTACT: Gerard Poliquin, Secretary of the Board, Telephone: 703–518–6304.

Gerard Poliquin,

Secretary of the Board.

[FR Doc. 2015–02955 Filed 2–9–15; 4:15 pm]

BILLING CODE 7535–01–P

POSTAL SERVICE

International Product Change—Priority Mail International Regional Rates Boxes Contracts

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add Priority Mail International Regional Rates Boxes Contracts to the Competitive Products List.

DATES: *Effective date:* February 11, 2015.

FOR FURTHER INFORMATION CONTACT: Sylvia Baylis, 202–268–6464.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642, on February 4, 2015, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail International Regional Rate Boxes Contracts to the Competitive Products List, and Notice of Filing (Under Seal) of Contract and Application for Non-Public Treatment of Materials Filed Under Seal.* Documents are available at *www.prc.gov*, Docket Nos. MC2015–31 and CP2015–40.

Stanley F. Mires,

Attorney, Federal Requirements.

[FR Doc. 2015–02742 Filed 2–10–15; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 31447; File No. 812–14351]

The Saratoga Advantage Trust and James Alpha Management, LLC; Notice of Application

February 5, 2015.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from section 15(a) of the Act and rule 18f–2 under the Act, as well as from certain disclosure requirements.

Summary of Application: Applicants request an order that would permit them to enter into and materially amend subadvisory agreements with Wholly-Owned Sub-Advisers (as defined below) and non-affiliated sub-advisers without shareholder approval and would grant relief from certain disclosure requirements.

Applicants: The Saratoga Advantage Trust (''Trust''), and James Alpha Management, LLC (''Adviser'').

DATES: *Filing Dates:* The application was filed on August 19, 2014, and amended on December 12, 2014 and on January 23, 2015.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on March 2, 2015, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Applicants: Michael W. Mundt, Stradley, Ronon Stevens & Young, 2600 One Commerce Square, Philadelphia, PA 19103–7098.

FOR FURTHER INFORMATION CONTACT: Emerson S. Davis, Senior Counsel, at (202) 551–6868, or Daniele Marchesani, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number or an applicant using the ''Company'' name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Trust is organized as a Delaware statutory trust and is registered under the Act as an open-end management investment company. The Trust currently consists of fifteen series (''Series''), each with its own distinct investment objective, policies and restrictions. The Adviser is a Delaware limited liability company and is registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act'').[1]

2. Each Series has or will have, as its investment adviser, the Adviser, or an entity controlling, controlled by or under common control with the Adviser or its successors (included in the term, the ''Adviser'').[2] The Adviser serves or will serve as the investment adviser to each Subadvised Series (as defined below) pursuant to an investment advisory agreement with the Trust (''Investment Management Agreement''). Each Investment Management Agreement has been or will be approved by the board of trustees of the Trust (''Board''),[3] including a majority of the members of the Board who are not ''interested persons,'' as defined in section 2(a)(19) of the Act, of the Subadvised Series or the Adviser (''Independent Board Members'') and by the shareholders of the relevant Subadvised Series as required by sections 15(a) and 15(c) of the Act and rule 18f–2 thereunder. The terms of the Investment Management Agreements comply or will comply with section 15(a) of the Act.

3. Under the terms of each Investment Management Agreement, the Adviser, subject to the supervision of the Board, will provide continuous investment management of the assets of each Series. The Adviser will periodically review a Series' investment policies and strategies, and based on the need of a particular Series may recommend changes to the investment policies and strategies of the Series for consideration by the Board. For its services to each Series under the applicable Investment Management Agreement, the Adviser will receive an investment management fee from that Series. Each Investment Management Agreement provides or will provide that the Adviser may, subject to the approval of the Board, including a majority of the Independent Board Members, and the shareholders of the applicable Subadvised Series (if required), delegate portfolio management responsibilities of all or a portion of the assets of a Subadvised Series to one or more Sub-Advisers.[4]

[1] Applicants request that the relief apply to applicants, as well as to any future Series and any other existing or future registered open-end management investment company or series thereof that is advised by the Adviser, uses the multi-manager structure described in the application, and complies with the terms and conditions of the application (''Subadvised Series''). All registered open-end investment companies that currently intend to rely on the requested order are named as applicants. Any entity that relies on the requested order will do so only in accordance with the terms and conditions contained in the application. If the name of any Subadvised Series contains the name of a sub-adviser, then the name of the Adviser that serves as the primary adviser to the Subadvised Series, or a trademark or trade name that is owned by or publicly used to identify that Adviser, will precede the name of the sub-adviser.

[2] Each Adviser is, or will be, registered with the Commission as an investment adviser under the Advisers Act. For purposes of the requested order, ''successor'' is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization.

[3] The term ''Board'' also includes the board of trustees or directors of a future Subadvised Series.

[4] A ''Sub-Adviser'' for a Subadvised Series is (a) an indirect or direct ''wholly-owned subsidiary'' (as such term is defined in the Act) of the Adviser for that Series; (b) a sister company of the Adviser for that Series that is an indirect or direct ''wholly-owned subsidiary'' (as such term is defined in the Act) of the same company that, indirectly or directly, wholly owns the Adviser (each of (a) and (b), a ''Wholly-Owned Sub-Adviser'' and collectively, the ''Wholly-Owned Sub-Advisers''), or (c) an investment sub-adviser for that Series that is not an ''affiliated person'' (as such term is defined in section 2(a)(3) of the Act) of the Series or the Adviser, except to the extent that an affiliation arises solely because the sub-adviser serves as a

Continued

4. Applicants request an order to permit the Adviser, subject to the approval of the Board of the relevant Subadvised Series, including a majority of the Independent Board Members, to, without obtaining shareholder approval: (i) select Sub-Advisers to manage all or a portion of the assets of a Series and enter into Sub-Advisory Agreements (as defined below) with the Sub-Advisers, and (ii) materially amend Sub-Advisory Agreements with the Sub-Advisers.[5] The requested relief will not extend to any sub-adviser, other than a Wholly-Owned Sub-Adviser, who is an affiliated person, as defined in section 2(a)(3) of the Act, of the Subadvised Series, the Trust, or of the Adviser, other than by reason of serving as a sub-adviser to one or more of the Subadvised Series (''Affiliated Sub-Adviser'').

5. Pursuant to each Investment Management Agreement, the Adviser has overall responsibility for the management and investment of the assets of each Subadvised Series. These responsibilities include recommending the removal or replacement of Sub-Advisers, determining the portion of that Subadvised Series' assets to be managed by any given Sub-Adviser and reallocating those assets as necessary from time to time.

6. The Adviser may enter into sub-advisory agreements with various Sub-Advisers (''Sub-Advisory Agreements'') to provide investment management services to the Subadvised Series. The terms of each Sub-Advisory Agreement comply or will comply fully with the requirements of section 15(a) of the Act and have been or will be approved by the Board, including a majority of the Independent Board Members and the initial shareholder of the applicable Subadvised Series, in accordance with sections 15(a) and 15(c) of the Act and rule 18f–2 thereunder. The Sub-Advisers, subject to the supervision of the Adviser and oversight of the Board, will determine the securities and other investments to be purchased, sold or entered into by a Subadvised Series and place orders with brokers or dealers that they select, or direct the Adviser to place such orders. The Adviser will compensate each Sub-Adviser out of the fee from the relevant Subadvised Series to the Adviser under the applicable Investment Management Agreement. A Subadvised Series also may pay advisory fees directly to a Sub-Adviser.

7. Subadvised Series will inform shareholders of the hiring of a new Sub-Adviser pursuant to the following procedures (''Modified Notice and Access Procedures''): (a) within 90 days after a new Sub-Adviser is hired for any Subadvised Series, that Subadvised Series will send its shareholders either a Multi-manager Notice or a Multi-manager Notice and Multi-manager Information Statement;[6] and (b) the Subadvised Series will make the Multi-manager Information Statement available on the Web site identified in the Multi-manager Notice no later than when the Multi-manager Notice (or Multi-manager Notice and Multi-manager Information Statement) is first sent to shareholders, and will maintain it on that Web site for at least 90 days. In the circumstances described in the application, a proxy solicitation to approve the appointment of new Sub-Advisers provides no more meaningful information to shareholders than the proposed Multi-manager Information Statement. Applicants state that each Board would comply with the requirements of sections 15(a) and 15(c) of the Act before entering into or amending Sub-Advisory Agreements.

8. Applicants also request an order exempting the Subadvised Series from certain disclosure obligations that may require each Subadvised Series to disclose fees paid by the Adviser to each Sub-Adviser. Applicants seek relief to permit each Subadvised Series to disclose (as a dollar amount and a percentage of the Subadvised Series' net assets): (a) the aggregate fees paid to the Adviser and any Wholly-Owned Sub-Advisers; (b) the aggregate fees paid to Non-Affiliated Sub-Advisers; and (c) the fee paid to each Affiliated Sub-Adviser (collectively, the ''Aggregate Fee Disclosure'').

Applicants' Legal Analysis

1. Section 15(a) of the Act states, in part, that it is unlawful for any person to act as an investment adviser to a registered investment company ''except pursuant to a written contract, which contract, whether with such registered company or with an investment adviser of such registered company, has been approved by the vote of a majority of the outstanding voting securities of such registered company.'' Rule 18f–2 under the Act provides that each series or class of stock in a series investment company affected by a matter must approve that matter if the Act requires shareholder approval.

2. Form N–1A is the registration statement used by open-end investment companies. Item 19(a)(3) of Form N–1A requires a registered investment company to disclose in its statement of additional information the method of computing the ''advisory fee payable'' by the investment company, including the total dollar amounts that the investment company ''paid to the adviser (aggregated with amounts paid to affiliated advisers, if any), and any advisers who are not affiliated persons of the adviser, under the investment advisory contract for the last three fiscal years.''

3. Rule 20a–1 under the Act requires proxies solicited with respect to a registered investment company to comply with Schedule 14A under the Exchange Act. Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8) and 22(c)(9) of Schedule 14A, taken together, require a proxy statement for a shareholder meeting at which the advisory contract will be voted upon to include the ''rate of compensation of the investment adviser,'' the ''aggregate amount of the investment adviser's fee,'' a description of the ''terms of the contract to be acted upon,'' and, if a change in the advisory fee is proposed, the existing and proposed fees and the difference between the two fees.

4. Regulation S–X sets forth the requirements for financial statements required to be included as part of a registered investment company's registration statement and shareholder reports filed with the Commission. Sections 6–07(2)(a), (b), and (c) of Regulation S–X require a registered investment company to include in its financial statement information about the investment advisory fees.

5. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction or any

sub-adviser to one or more Series (each, a ''Non-Affiliated Sub-Adviser'').

[5] Shareholder approval will continue to be required for any other sub-adviser changes and material amendments to an existing sub-advisory agreement with any sub-adviser other than a Non-Affiliated Sub-Adviser or a Wholly-Owned Sub-Adviser (all such changes referred to as ''Ineligible Sub-Adviser Changes''), except as otherwise permitted by applicable law or by rule.

[6] A ''Multi-manager Notice'' will be modeled on a Notice of Internet Availability as defined in rule 14a–16 under the Securities Exchange Act of 1934 (''Exchange Act''), and specifically will, among other things: (a) summarize the relevant information regarding the new Sub-Adviser (except as modified to permit Aggregate Fee Disclosure (as defined below); (b) inform shareholders that the Multi-manager Information Statement is available on a Web site; (c) provide the Web site address; (d) state the time period during which the Multi-manager Information Statement will remain available on that Web site; (e) provide instructions for accessing and printing the Multi-manager Information Statement; and (f) instruct the shareholder that a paper or email copy of the Multi-manager Information Statement may be obtained, without charge, by contacting the Subadvised Series. A ''Multi-manager Information Statement'' will meet the requirements of Regulation 14C, Schedule 14C and Item 22 of Schedule 14A under the Exchange Act for an information statement, except as modified by the order to permit Aggregate Fee Disclosure. Multi-manager Information Statements will be filed with the Commission via the EDGAR system.

class or classes of persons, securities, or transactions from any provisions of the Act, or from any rule thereunder, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants state that their requested relief meets this standard for the reasons discussed below.

6. Applicants assert that the shareholders expect the Adviser, subject to the review and approval of the Board, to select the Sub-Advisers who are in the best position to achieve the Subadvised Series' investment objective. Applicants assert that, from the perspective of the shareholder, the role of the Sub-Advisers is substantially equivalent to the role of the individual portfolio managers employed by an investment adviser to a traditional investment company. Applicants believe that permitting the Adviser to perform the duties for which the shareholders of the Subadvised Series are paying the Adviser the selection, supervision and evaluation of the Sub-Advisers without incurring unnecessary delays or expenses is appropriate in the interest of the Subadvised Series' shareholders and will allow such Subadvised Series to operate more efficiently. Applicants state that each Investment Management Agreement will continue to be fully subject to section 15(a) of the Act and rule 18f–2 under the Act and approved by the Board, including a majority of the Independent Board Members, in the manner required by sections 15(a) and 15(c) of the Act. Applicants are not seeking an exemption with respect to the Investment Management Agreements.

7. Applicants assert that disclosure of the individual fees that the Adviser would pay to the Sub-Advisers of Subadvised Series that operate under the multi-manager structure described in the application would not serve any meaningful purpose. Applicants contend that the primary reasons for requiring disclosure of individual fees paid to Sub-Advisers are to inform shareholders of expenses to be charged by a particular Subadvised Series and to enable shareholders to compare the fees to those of other comparable investment companies. Applicants believe that the requested relief satisfies these objectives because the advisory fee paid to the Adviser will be fully disclosed and, therefore, shareholders will know what the Subadvised Series' fees and expenses are and will be able to compare the advisory fees a Subadvised Series is charged to those of other investment companies. Applicants assert that the requested disclosure relief would benefit shareholders of the Subadvised Series because it would improve the Adviser's ability to negotiate the fees paid to Sub-Advisers. Applicants state that the Adviser may be able to negotiate rates that are below a Sub-Adviser's ''posted'' amounts if the Adviser is not required to disclose the Sub-Advisers' fees to the public. Applicants submit that the relief requested to use Aggregate Fee Disclosure will encourage Sub-Advisers to negotiate lower subadvisory fees with the Adviser if the lower fees are not required to be made public.

8. For the reasons discussed above, applicants submit that the requested relief meets the standards for relief under section 6(c) of the Act. Applicants state that the operation of the Subadvised Series in the manner described in the application must be approved by shareholders of a Subadvised Series before that Subadvised Series may rely on the requested relief. In addition, applicants state that the proposed conditions to the requested relief are designed to address any potential conflicts of interest, including any posed by the use of Wholly-Owned Sub-Advisers, and provide that shareholders are informed when new Sub-Advisers are hired. Applicants assert that conditions 6, 10 and 11 are designed to provide the Board with sufficient independence and the resources and information it needs to monitor and address any conflicts of interest with affiliated persons of the Adviser, including Wholly-Owned Sub-Advisers. Applicants state that, accordingly, they believe the requested relief is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:[7]

1. Before a Subadvised Series may rely on the order requested in the application, the operation of the Subadvised Series in the manner described in the application, including the hiring of Wholly-Owned Sub-Advisers, will be, or has been, approved by a majority of the Subadvised Series' outstanding voting securities as defined in the Act, or, in the case of a new Subadvised Series whose public shareholders purchase shares on the basis of a prospectus containing the disclosure contemplated by condition 2 below, by the sole initial shareholder before offering the Subadvised Series' shares to the public.

2. The prospectus for each Subadvised Series will disclose the existence, substance, and effect of any order granted pursuant to the application. Each Subadvised Series will hold itself out to the public as employing the multi-manager structure described in the application. Each prospectus will prominently disclose that the Adviser has the ultimate responsibility, subject to oversight by the Board, to oversee the Sub-Advisers and recommend their hiring, termination and replacement.

3. The Adviser will provide general management services to a Subadvised Series, including overall supervisory responsibility for the general management and investment of the Subadvised Series' assets. Subject to review and approval of the Board, the Adviser will (a) set a Subadvised Series' overall investment strategies, (b) evaluate, select, and recommend Sub-Advisers to manage all or a portion of a Subadvised Series' assets, and (c) implement procedures reasonably designed to ensure that Sub-Advisers comply with a Subadvised Series' investment objective, policies and restrictions. Subject to review by the Board, the Adviser will (a) when appropriate, allocate and reallocate a Subadvised Series' assets among multiple Sub-Advisers; and (b) monitor and evaluate the performance of Sub-Advisers.

4. A Subadvised Series will not make any Ineligible Sub-Adviser Changes without the approval of the shareholders of the applicable Subadvised Series.

5. Subadvised Series will inform shareholders of the hiring of a new Sub-Adviser within 90 days after the hiring of the new Sub-Adviser pursuant to the Modified Notice and Access Procedures.

6. At all times, at least a majority of the Board will be Independent Board Members, and the selection and nomination of new or additional Independent Board Members will be placed within the discretion of the then-existing Independent Board Members.

7. Independent Legal Counsel, as defined in rule 0–1(a)(6) under the Act, will be engaged to represent the Independent Board Members. The selection of such counsel will be within the discretion of the then-existing Independent Board Members.

8. The Adviser will provide the Board, no less frequently than quarterly, with information about the profitability

[7] Applicants will only comply with conditions 7, 8, 9 and 12 if they rely on the relief that would allow them to provide Aggregate Fee Disclosure.

of the Adviser on a per Subadvised Series basis. The information will reflect the impact on profitability of the hiring or termination of any sub-adviser during the applicable quarter.

9. Whenever a sub-adviser is hired or terminated, the Adviser will provide the Board with information showing the expected impact on the profitability of the Adviser.

10. Whenever a sub-adviser change is proposed for a Subadvised Series with an Affiliated Sub-Adviser or a Wholly-Owned Sub-Adviser, the Board, including a majority of the Independent Board Members, will make a separate finding, reflected in the Board minutes, that such change is in the best interests of the Subadvised Series and its shareholders, and does not involve a conflict of interest from which the Adviser or the Affiliated Sub-Adviser or Wholly-Owned Sub-Adviser derives an inappropriate advantage.

11. No director, trustee or officer of a Subadvised Series, or partner, director, manager or officer of the Adviser, will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by such person), any interest in a Sub-Adviser, except for (a) ownership of interests in the Adviser or any entity, other than a Wholly-Owned Sub-Adviser, that controls, is controlled by, or is under common control with the Adviser, or (b) ownership of less than 1% of the outstanding securities of any class of equity or debt of a publicly traded company that is either a Sub-Adviser or an entity that controls, is controlled by, or is under common control with a Sub-Adviser.

12. Each Subadvised Series will disclose the Aggregate Fee Disclosure in its registration statement.

13. In the event the Commission adopts a rule under the Act providing substantially similar relief to that requested in the application, the requested order will expire on the effective date of that rule.

14. Any new Sub-Advisory Agreement or any amendment to a Subadvised Series' existing Investment Management Agreement or Sub-Advisory Agreement that directly or indirectly results in an increase in the aggregate advisory rate payable by the Subadvised Series will be submitted to the Subadvised Series' shareholders for approval.

For the Commission, by the Division of Investment Management, under delegated authority.

Brent J. Fields,

Secretary.

[FR Doc. 2015–02745 Filed 2–10–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 31448; File No. 812–14407]

NexPoint Credit Strategies Fund, et al.; Notice of Application

February 5, 2015.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 17(b) of the Investment Company Act of 1940 (the ''Act'') granting an exemption from section 17(a) of the Act, and under section 17(d) of the Act and rule 17d–1 thereunder permitting certain joint transactions.

APPLICANTS: NexPoint Credit Strategies Fund (''NHF''), NexPoint Residential Trust, Inc. (''NXRT REIT''), Freedom REIT, LLC (''Freedom REIT'') (each, a ''Fund,'' and together, the ''Funds''), NexPoint Advisors, L.P. (''NHF Adviser''), and NexPoint Real Estate Advisors, L.P. (''NXRT Adviser'') (each, an ''Adviser,'' and together, the ''Advisers''), NexPoint Residential Trust Operating Partnership, L.P. (''NXRT OP''), and NexPoint Residential Merger Company, LLC (''NXRT LLC'') (collectively, the ''Applicants'').

SUMMARY: *Summary of Application:* Applicants seek an order to permit NHF to transfer certain real estate assets (the ''Multifamily Properties'') held by Freedom REIT, NHF's wholly-owned subsidiary, to NXRT REIT, a real estate investment trust (''REIT'') and NHF's wholly-owned subsidiary, in exchange for NXRT REIT common stock; to permit NHF to distribute such common stock to NHF's shareholders; and to permit NXRT Adviser to enter into an investment advisory agreement with NXRT REIT.

DATES: *Filing Dates:* The application was filed on December 22, 2014 and amended on February 4, 2015.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on February 25, 2015 and should be accompanied by proof of service on the applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Pursuant to Rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. The Applicants: c/o David J. Harris, Esq., and Thomas J. Friedmann, Esq., Dechert LLP, 1900 K Street NW., Washington, DC 20006–6808.

FOR FURTHER INFORMATION CONTACT: Anil K. Abraham, Senior Special Counsel, at (202) 551–2614, or James M. Curtis, Branch Chief, at (202) 551–6712 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. NHF was organized as a Delaware statutory trust and is registered under the Act as a non-diversified, closed-end management investment company. NHF has elected to be treated as a regulated investment company (''RIC'') under Subchapter M of the Internal Revenue Code of 1986, as amended (the ''Code''). NHF's investment objectives are to provide both current income and capital appreciation, which it seeks to achieve by investing primarily in bonds and other debt obligations, including below-investment grade debt obligations, and equity.

2. Freedom REIT, a direct, wholly-owned subsidiary [1] of NHF, was organized on October 12, 2012 as a Delaware limited liability company and subsequently elected to be treated as a REIT under section 856 of the Code. Freedom REIT is considered a single investment for purposes of determining

[1] As defined in section 2(a)(43) of the Act, a ''wholly-owned subsidiary'' of a person means a company 95% or more of the outstanding voting securities of which are owned by such person, or by a company which, within the meaning of this paragraph, is a wholly-owned subsidiary of such person.

NHF's compliance with its RIC diversification requirements and in NHF's financial statements pursuant to rule 6–03 under the Securities Exchange Act of 1934 (''Exchange Act'').

3. NXRT REIT was organized as a Maryland corporation and filed a registration statement on Form 10 on September 29, 2014 to register its shares under section 12(b) of the Exchange Act. NXRT REIT amended that registration statement on November 7, 2014 and January 9, 2015. On the effective date of the Spin-Off Transaction (defined below) (''Effective Date''), NHF Adviser intends to cause the shares of NXRT REIT to be listed on the New York Stock Exchange (''NYSE''). The business objectives of NXRT REIT are to: (a) Deliver stable, attractive yields and long-term capital appreciation to its shareholders; (b) acquire multifamily properties in markets with attractive job growth and household formation fundamentals primarily in the southeastern United States and Texas; (c) acquire assets significantly below replacement costs; (d) implement a value-add program to increase returns to shareholders; and (e) own assets that provide lifestyle amenities and upgraded living spaces to low and moderate income renters.

4. NXRT OP was organized as a Delaware limited partnership and is wholly-owned by NXRT REIT. NXRT OP was formed solely to implement the Spin-Off Transaction and the subsequent operation of NXRT REIT's business on a tax-efficient basis.

5. NXRT LLC was organized as a Delaware limited liability company and is wholly-owned by Freedom REIT. NXRT LLC was formed solely to implement the Spin-Off Transaction on a tax-efficient basis.

6. NHF Adviser was organized as a Delaware limited liability company and is registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act''). NHF Adviser is wholly-owned by an affiliate of Highland Capital Management, L.P. (''Highland''). Highland is also registered as an investment adviser under the Advisers Act. NHF Adviser currently acts as the investment adviser to NHF pursuant to an investment advisory agreement (the ''NHF Advisory Agreement'') between NHF and NHF Adviser. NHF Adviser employs portfolio management team members that currently manage Freedom REIT's portfolio.

7. NXRT Adviser was organized as a Delaware limited partnership and is registered as an investment adviser under the Advisers Act and is a wholly-owned subsidiary of NHF Adviser. Following the Spin-Off Transaction, NXRT Adviser will serve as the investment adviser to NXRT REIT pursuant to an investment advisory agreement (''NXRT Advisory Agreement''). Following the Spin-Off Transaction, the portfolio management team members that currently manage Freedom REIT's portfolio will advise NXRT REIT as employees of NXRT Adviser.

8. NHF's current prospectus sets forth a non-fundamental policy of investing at least 80% of NHF's assets in loans, bonds, debt obligations, and structured products under normal market conditions. NHF may invest up to 20% of its assets in other types of investments (the ''20% Limit''). Accordingly, NHF limits its investment in Freedom REIT to 20% of its total assets, or approximately $252 million as of December 31, 2014. As of that date, the value of the Multifamily Properties held by Freedom REIT was approximately $238 million, or approximately 19% of the total assets of NHF. Based on additional multifamily properties under contract and expected to close in the first quarter of 2015, Freedom REIT is expected to approach the 20% Limit in the first quarter of 2015, at which time NHF will be unable to make additional investments in Freedom REIT.

9. Without the consummation of the Spin-Off Transaction, NHF would be unable to invest in additional multifamily real estate properties for the benefit of its shareholders, and NHF Adviser would likely have to liquidate Freedom REIT's Multifamily Properties over time in order to maximize shareholder value. NHF Adviser believes the terms that NHF would realize in connection with any such liquidation would be significantly less favorable to NHF shareholders than if the Multifamily Properties were spun-off in the Spin-Off Transaction.

10. To enable NHF's shareholders to determine whether and to what extent they will have exposure to multifamily real estate, the NHF Board (''NHF Board''), including a majority of the trustees who are not interested persons [2] (as defined in section 2(a)(19) of the Act) (the ''Independent Trustees'') of NHF, has approved the Spin-Off Transaction, subject to the issuance of the requested order and the approval of a majority of the outstanding voting securities (as defined in section 2(a)(42) of the Act) of NHF of the NXRT Advisory Agreement. If the required approvals are obtained, NHF will cause: (a) Freedom REIT to contribute the Multifamily Properties to NXRT LLC; (b) Freedom REIT to distribute all of its membership interests in NXRT LLC to NHF; and (c) NXRT LLC to merge with NXRT OP, a wholly-owned subsidiary of NXRT REIT. NXRT REIT's acquisition of the Multifamily Properties will be consistent with its investment goals, policies, and restrictions. NHF will distribute all of the NXRT REIT shares on the Effective Date to NHF shareholders (with the Freedom REIT's contribution of the Multifamily Properties to NXRT LLC, the distribution of the membership interests of NXRT LLC to NHF, the merger of NXRT LLC with NXRT OP and the execution of the NXRT Advisory Agreement, collectively, the ''Spin-Off Transaction'').

11. Each NHF shareholder will receive a pro rata distribution of NXRT REIT shares based upon the number of NHF shares that each shareholder owns on the distribution record date. If such distribution had occurred on December 31, 2014, the aggregate fair value of the shares of NXRT REIT distributed to NHF shareholders would have been $238 million.

12. The Advisers believe that the Spin-Off Transaction offers the most cost-effective and efficient means by which NHF shareholders can be given the opportunity to choose for themselves whether, and to what extent, they will continue NXRT REIT's multifamily property investment strategy by continuing to hold the NXRT REIT shares they receive in the Spin-Off Transaction. At the same time, the Spin-Off Transaction creates a cost-effective way for NHF shareholders who are not interested in having as much exposure to the multifamily real estate market to receive immediate liquidity for all or a portion of such assets.

13. The Spin-Off Transaction will not be consummated unless and until each of the following approvals is obtained: (a) The NHF Board and a majority of the

[2] An ''interested person'' is defined under section 2(a)(19) of the Act to include, among other things, ''any affiliated person'' of an investment company. Under section 2(a)(3) of the Act, an ''affiliated person'' of another person means (A) any person directly or indirectly owning, controlling, or holding with power to vote, 5 per centum or more of whose outstanding voting securities of such other person; (B) any person 5 per centum or more of whose outstanding voting securities are directly or indirectly owned, controlled or held with power to vote, by such other person; (C) any person directly or indirectly controlling, controlled by, or under common control with, such other person; (D) any officer, director, partner, copartner, or employee of such other person; (E) if such other person is an investment company, any investment adviser thereof or any member of an advisory board thereof; and (F) if such other person is an unincorporated investment company not having a board of directors, the depositor thereof.

Independent Trustees will approve the NXRT Advisory Agreement at an in-person meeting of the NHF Board that complies with the procedural requirements of section 15 of the Act; (b) NHF shareholder approval of the NXRT Advisory Agreement will be sought at a special meeting of NHF shareholders anticipated to be held in March 2014; and (c) the board of directors of NXRT REIT (''NXRT Board''), including a majority of the directors who are not interested persons (as defined in section 2(a)(19) of the Act) (the ''Independent Directors'') of NXRT, will ratify and approve the NXRT Advisory Agreement in accordance with the requirements of section 15(c) of the Act, and NXRT Adviser and NXRT REIT will comply with section 15 of the Act, as provided in the Condition below.

14. The NHF Board, including its Independent Trustees, has considered that the Spin-Off Transaction should result in the following benefits to NHF shareholders: (a) NXRT REIT shares will be issued to investors at a lower transaction cost than is typically the case for a newly organized REIT because there will be no underwriting discounts or commissions incurred by NHF, NXRT REIT, or any shareholder thereof in connection with the Spin-Off Transaction; (b) NHF shareholders will not incur incremental investment advisory fees relating to the management of the Multifamily Properties as a result of the Spin-Off Transaction, neither of the Advisers is entitled to receive, either before or after the Spin-Off Transaction, a performance-based incentive fee, internalization fee, or any ''break-up'' or termination fees under their respective investment advisory contracts and the NXRT Advisory Agreement will contain the same terms for reimbursement of administrative costs and out-of-pocket expenses incurred by NXRT Adviser and its affiliates as are currently in place for NHF and NHF Adviser; (c) neither NHF Adviser nor NXRT Adviser will receive any compensation other than fees under the NHF Advisory Agreement or the NXRT Advisory Agreement in connection with the Spin-Off Transaction; (d) although NXRT REIT will not be an investment company regulated under the Act, NXRT REIT will commit in its articles of incorporation that it will not enter into an investment advisory agreement unless that agreement complies with section 15 of the Act and has been approved in compliance with section 15(c) of the Act and any applicable rules thereunder or published guidance of the Commission or its staff; (e) the Independent Directors will not overlap with the Independent Trustees; (f) the Spin-Off Transaction is not expected to increase or decrease the aggregate net assets of NHF and NXRT REIT; and (g) NHF shareholders will be able to maintain, increase or decrease their exposure to the multifamily property market by holding, buying, or selling, respectively, shares of NXRT REIT.

15. The NXRT Advisory Agreement will be approved by a majority of the NXRT Board, as well as by a majority of the Independent Directors, at an in-person meeting called for such purpose. That agreement will have an initial term of up to two years, and will continue thereafter only if such continuance is approved in accordance with section 15(c) of the Act. Any material change in the terms of the NXRT Advisory Agreement will require the approval of a majority of the outstanding voting securities (as defined in section 2(a)(42) of the Act) of NXRT REIT, and the NXRT Advisory Agreement will terminate in the event of its assignment (as defined in section 2(a)(4) of the Act). The NXRT Advisory Agreement will be terminable by the board or shareholders of NXRT REIT at any time on 60 days' notice without penalty. NXRT REIT's articles of incorporation will also require that a majority of its directors be Independent Directors.

16. NHF Adviser believes that holding the Multifamily Properties in NXRT REIT instead of NHF may benefit shareholders by reducing a discount that may be attributable to such assets. NHF shares, like shares of many registered closed-end funds, have traded at a discount to net asset value (''NAV''). As of January 30, 2015, NHF shares were trading at a 14.3% discount to NAV, whereas REIT shares generally trade closer to their NAVs than registered closed-end funds such as NHF. Based upon historical and current relative trading values in the secondary market for REITs and closed-end funds, the Advisers anticipate that NXRT REIT common stock will trade at or near its implied NAV after the Spin-Off Transaction. If the common stock of NXRT REIT trades at its implied NAV following the Spin-Off Transaction, NHF shareholders would, in effect, have eliminated the discount on a portion of their NHF shares. In addition, the discount at which many closed-end fund shares trade limits a closed-end fund's ability to raise incremental capital for investment, including investments necessary to fund capital expenditures in multifamily properties. NXRT REIT may be better able to realize the value of the Multifamily Properties than would NHF, absent the Spin-Off Transaction. The Applicants believe the Spin-Off Transaction is the most cost-effective and efficient way to maximize value to NHF shareholders from the Multifamily Properties.

17. Counsel has advised NXRT REIT that the distribution of shares of NXRT REIT to NHF shareholders likely will be a taxable event for NHF shareholders, but NHF Adviser estimates that the tax impact of the Spin-Off Transaction is likely to be modest. The realization of certain taxable gains at NHF are expected to be substantially offset by existing capital loss carry-forwards, scheduled to expire starting in 2015, to the extent that the Multifamily Properties have been held for more than one year. Any gain not offset by such capital loss carry-forwards will be recognizable by NHF shareholders to the extent it exceeds undistributed net income. Distributing such gains may permit NHF to avoid paying or to reduce federal excise tax on undistributed income. The NHF Board, including the Independent Trustees, has considered the potential tax consequences of the Spin-Off Transaction and has determined that the significant benefits of the Spin-Off Transaction outweigh the adverse tax consequences to NHF and its shareholders, particularly because such tax consequences are expected to be minimal.

18. The costs of organizing NXRT REIT and effecting the distribution of NXRT REIT shares to NHF shareholders, including the fees and expenses of counsel and accountants and printing, listing and registration fees, the costs of soliciting NHF's shareholders' approval of the Transaction, and the costs incurred in connection with this Application, are estimated to be approximately $3 million. These expenses will be borne ratably by NHF and NXRT REIT, with such expense allocations subject to the approval of the Independent Trustees and Independent Directors. A portion of this amount represents costs that would have been incurred directly or indirectly in the ordinary course of operations by NHF. NXRT REIT will incur operating expenses on an ongoing basis, including investment advisory fees and legal, auditing, transfer agency, and custody expenses that, when aggregated with the fees payable by NHF for similar services after the Spin-Off Transaction, should be approximately the same as, or slightly higher (due to marginal duplication) than, the fees currently payable by NHF for such services. Under the terms of the NXRT Advisory Agreement, NXRT Adviser will not receive any fees for investment advisory

services prior to the Effective Date. If the Spin-Off Transaction is not completed by March 31, 2015, NHF will be obligated to pay approximately $5 million in additional fees and expenses to the Federal Home Loan Mortgage Corporation when the mortgages on the Multifamily Properties are assigned.

Applicants' Legal Analysis

1. Applicants request an order under section 17(b) of the Act granting an exemption from section 17(a) of the Act and under section 17(d) of the Act and rule17d–1 thereunder permitting certain joint transactions.

2. Section 17(a) of the Act generally prohibits sales or purchases of securities between a registered investment company and an affiliated person of that investment company. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include (a) any person directly or indirectly owning, controlling, or holding with power to vote 5% or more of the outstanding voting securities of the other person, (b) any person 5% or more of whose voting securities are directly or indirectly owned controlled or held with the power to vote by the other person, and (c) any person directly or indirectly controlling, controlled by, or under common control with, the other person. Each of Freedom REIT and NXRT REIT may be viewed as an affiliated person of NHF under section 2(a)(3) because NHF will own, directly or indirectly, 100% of the outstanding voting securities of each prior to the consummation of the Spin-Off Transaction. Each of Freedom REIT and NXRT REIT may also be viewed as an affiliated person of NHF to the extent that they may be deemed to be under common control by virtue of having investment advisers that are under common control. As a result of the affiliation between NHF and each of Freedom REIT and NXRT REIT, section 17(a)(1) could be deemed to prohibit (a) Freedom REIT's contribution of the Multifamily Properties to NXRT REIT for shares issued by NXRT REIT and (b) Freedom REIT's distribution to NHF of the NXRT REIT shares, and section 17(a)(2) could be deemed to prohibit NXRT REIT from purchasing the Multifamily Properties in consideration for shares issued by NXRT REIT.

3. Applicants request an exemption pursuant to section 17(b) of the Act from the provisions of section 17(a) to permit the Applicants to effect the Spin-Off Transaction. Section 17(b) authorizes the Commission to issue such an exemptive order if the Commission finds that the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any persons concerned, and the proposed transaction is consistent with the policy of each registered investment company and the general purposes of the Act.

4. Applicants assert that the terms of the Spin-Off Transaction, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching by any person concerned. Applicants state that the proposed contribution by Freedom REIT of the Multifamily Properties to NXRT REIT in exchange for shares of NXRT REIT common stock will not change the fair value of such assets as determined by NHF Adviser in accordance with the valuation policies established by, and subject to the supervision of, the NHF Board. Such valuations will be passed upon by the NHF Board and NXRT REIT Board (including the Independent Trustees and Independent Directors, respectively, thereon) on a business day to be selected by the NHF Board (the ''Valuation Date''). As noted above, it is anticipated that such assets will consist largely of the Multifamily Properties, which have been held by Freedom REIT, on average, for several fiscal quarters and the valuation of which is well understood by NHF Adviser and the NHF Board. The shares of NXRT REIT that will be distributed to the NHF shareholders pro rata in the Spin-Off Transaction will be valued based on the value of NXRT REIT's assets.

5. The Spin-Off Transaction will be consistent with the investment policies of NHF and NXRT REIT, as will be fully disclosed to shareholders of NHF in the proxy statement seeking NHF shareholder approval of the NXRT Advisory Agreement (''Proxy Statement'') and as disclosed by NXRT REIT in its registration statement on Form 10. The Proxy Statement that will be used to solicit the approval of NHF's shareholders for the NXRT Advisory Agreement will describe the investment objectives and policies of NHF and NXRT REIT, the management of NXRT REIT, and the terms of the Spin-Off Transaction. The Proxy Statement will be used to solicit the approval of NHF's shareholders of the Spin-Off Transaction at shareholder meeting to take place following the issuance of the requested order. NHF's shareholders will have the opportunity to vote after having received all material disclosure concerning the NXRT Advisory Agreement. The Spin-Off Transaction will not change the underlying assets owned by current NHF shareholders. However, following the Spin-Off Transaction certain of such assets, the Multifamily Properties, will be held through a REIT not regulated under the Act. The remaining assets will continue to be held through NHF, a closed-end management investment company regulated under the Act.

6. The Applicants assert that the proposed Spin-Off Transaction is being proposed to benefit NHF and its shareholders. The NHF Board and the NXRT Board, including a majority of each's Independent Trustees and Independent Directors, respectively, have each determined that participation in the Spin-Off Transaction is in the best interests of NHF and NXRT REIT, as applicable, and that the interests of the existing stockholders of NHF will not be diluted as a result of effecting the Spin-Off Transaction. Such findings, and the basis upon which the findings were made, will be recorded fully in the minute books of NHF and NXRT REIT.

7. Applicants also seek an order under section 17(d) of the Act and rule 17d–1 thereunder. Section 17(d) of the Act and rule 17d–1 thereunder generally prohibit, among other things, transactions in which a registered investment company and any affiliated person of such a company may be deemed to be acting jointly and as principal. In passing on applications for these orders, rule 17d–1 provides that the Commission will consider whether the participation of the investment company is consistent with the provisions, policies and purposes of the Act, and the extent to which the participation is on a basis different from or less advantageous than that of the other participants. Applicants request an order pursuant to rule 17d–1 to the extent that the participation of the Applicants in the Spin-Off Transaction may be deemed to constitute a prohibited joint transaction.

8. Applicants state that the Spin-Off Transaction will not place any of NHF, NXRT REIT or existing NHF shareholders in a position less advantageous than that of any other participant in the Spin-Off Transaction. The value of NHF's assets transferred to NXRT REIT (and the shares of NXRT REIT stock received in return) will be based on their fair values as determined by the Advisers and the Boards of the Funds on the Valuation Date in accordance with the requirements of the Act and pursuant to valuation policies and procedures adopted by the Boards of NHF and NXRT REIT. The NXRT REIT shares will be distributed to NHF's shareholders, leaving such shareholders in the same investment posture immediately following the Spin-Off Transaction as before, subject only to the allocation of transaction costs and expenses and changes in the market

prices of the underlying assets subsequent to the Spin-Off Transaction.

9. Applicants assert that the Spin-Off Transaction is being proposed to benefit NHF shareholders. The advisory fees for NXRT REIT will be substantially similar to those paid by NHF prior to the Spin-Off Transaction, and neither Adviser nor any affiliated person of NHF or NXRT REIT will receive additional fees on a consolidated basis solely as a result of the Spin-Off Transaction. The Board of NHF has determined that the prospective benefits to the Advisers would be marginal compared to the prospective benefits to NHF shareholders. In addition, by consummating the Spin-Off Transaction, NHF would enable its shareholders to receive securities without the costs associated with a public offering.

Applicants' Condition

NXRT REIT will commit in its articles of incorporation that it will comply with section 15 of the Act as if it were an investment company registered under the Act, and that it will not enter into an investment advisory agreement unless that agreement complies with section 15 of the Act and any applicable rules thereunder or published guidance of the Commission or its staff.

For the Commission, by the Division of Investment Management, under delegated authority.

Brent J. Fields,

Secretary.

[FR Doc. 2015–02796 Filed 2–10–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74223; File No. 4–668]

Joint Industry Plan; Notice of Amendment to the National Market System Plan Governing the Process of Selecting a Plan Processor and Developing a Plan for the Consolidated Audit Trail by BATS Exchange, Inc., BATS–Y Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., Financial Industry Regulatory Authority, Inc., International Securities Exchange, LLC, ISE Gemini, LLC, Miami International Securities Exchange LLC, NASDAQ OMX BX, Inc., NASDAQ OMX PHLX LLC, The NASDAQ Stock Market LLC, National Stock Exchange, Inc., New York Stock Exchange LLC, and NYSE MKT LLC, NYSE Arca, Inc.

February 6, 2015.

I. Introduction

Pursuant to Section 11A of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 608 thereunder,[2] notice is hereby given that, on December 12, 2014, BATS Exchange, Inc., BATS–Y Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., Financial Industry Regulatory Authority, Inc., International Securities Exchange, LLC, ISE Gemini, LLC, Miami International Securities Exchange LLC, NASDAQ OMX BX, Inc., NASDAQ OMX PHLX LLC, The NASDAQ Stock Market LLC, National Stock Exchange, Inc., New York Stock Exchange LLC, NYSE MKT LLC, and NYSE Arca, Inc. (collectively, ''SROs'' or ''Participants''), filed with the Securities and Exchange Commission (the ''Commission'') a proposal to amend the Plan Governing the Process of Selecting a Plan Processor and Developing a Plan for the Consolidated Audit Trail (the ''Selection Plan'').

II. Background

On July 11, 2012, the Commission adopted Rule 613 to require the SROs to jointly submit a national market system (''NMS'') plan to create, implement, and maintain a consolidated audit trail (''CAT NMS Plan'').[3] To facilitate the development of the consolidated audit trail, following the adoption of Rule 613, the SROs created a working group consisting of representatives from each SRO. The SROs also decided to engage in a request for proposal (''RFP'') process to help them develop the CAT NMS Plan and to solicit bids (''Bids [4]'') for the role of Plan Processor to build, operate, administer, and maintain the consolidated audit trail.[5] In addition, on September 3, 2013, the SROs filed, for approval, the Selection Plan to govern how the SROs would proceed with formulating and submitting the CAT NMS Plan—and, as part of that process, how the SROs would review, evaluate, and narrow down the Bids submitted in response to the RFP—and ultimately selecting the Plan Processor.[6] The Selection Plan was approved on February 21, 2014.[7]

The SROs propose to amend the Selection Plan in two ways. First, the SROs propose to provide opportunities to accept revised Bids prior to approval of the CAT NMS Plan, and second, to allow the list of Shortlisted Bids to be narrowed prior to Commission approval of the CAT NMS Plan. A copy of the proposed amendment to the Selection Plan is attached as *Exhibit A* hereto. The Commission is publishing this notice to solicit comments from interested persons on the proposed amendment to the Selection Plan.

III. Description of the Plan

Set forth in this Section II is the statement of the purpose of the Selection Plan, along with the information required by Rule 608(a)(4) and (5) under the Exchange Act,[8] prepared and submitted by the SROs to the Commission.[9]

A. Background

The Selection Plan governs the process for Participant review of Bids for the role of Plan Processor for the CAT NMS Plan, the procedures for evaluating the Bids, and ultimately, until approval of the CAT NMS Plan,

[1] 15 U.S.C. 78k–1.

[2] 17 CFR 242.608.

[3] Securities Exchange Act Release No. 67457 (July 18, 2012), 77 FR 45722 (August 1, 2012).

[4] Pursuant to Section I(C) of the Selection NMS Plan, a ''Bid'' is a proposal submitted by a Bidder in response to the RFP.

[5] *See* Securities Exchange Act Release No. 70892 (Nov. 15, 2013), 78 FR 69910 (Nov. 21, 2013)(Notice of Selection NMS Plan).

[6] *Id.*

[7] *See* Securities Exchange Act Release No. 71596 (Feb. 21, 2014), 79 FR 11152 (Feb. 27, 2014)(Approval Order).

[8] *See* 17 CFR 242.608(a)(4) and (a)(5).

[9] *See* Letter from the Participants to Brent J. Fields, Secretary, Commission, dated December 12, 2014.

the selection of the Plan Processor. The CAT NMS Plan was filed with the Commission for approval on September 30, 2014.

After gaining experience with the development process for the CAT NMS Plan, the Participants believe it is necessary to amend the Selection Plan to ensure that the Participants will be able to choose a Plan Processor within the timeframe provided in the Selection Plan and Rule 613. The Participants propose amending the Selection Plan to (1) provide for additional opportunities to accept revised Bids and (2) allow the set of Shortlisted Bids to be narrowed prior to Commission approval of the CAT NMS Plan.

1. The Selection Plan Currently Allows Bid Revisions Only Following CAT NMS Plan Approval, and Does Not Allow for Narrowing of the Set of Shortlisted Bids

Under the Selection Plan, Shortlisted Bidders are only eligible to revise Bids following Commission approval of the CAT NMS Plan. The Selection Plan specifies that, following approval of the CAT NMS Plan by the SEC, Shortlisted Bidders for the role of Plan Processor may be permitted to revise their Bids based on the provisions in the approved CAT NMS Plan, including further discussions if determined to be necessary by the Selection Committee described in the Selection Plan.[10] The Selection Plan provides that a Shortlisted Bidder will be permitted to revise its Bid only upon approval by a majority of the Selection Committee, subject to certain recusal provisions in the Selection Plan, that revisions are necessary or appropriate in the light of the content of the Shortlisted Bidder's initial Bid and the provisions in the approved CAT NMS Plan.[11]

The Selection Plan also requires that selection of the Plan Processor occur from among the initial set of Shortlisted Bids.[12] Under the current Selection Plan, the Participants are not permitted to narrow the list of Shortlisted Bids determined pursuant to Section VI(B) of the Selection Plan.

2. Allowing Revision(s) of Bids In Light of Additional Information Available to Shortlisted Bidders and Providing for Narrowing the Set of Shortlisted Bidders Will Allow the Participants to Select the Plan Processor More Effectively and Efficiently Within the Rule 613 Timeframe

The Participants believe that providing the Shortlisted Bidders with an additional opportunity or opportunities to revise their Bids prior to the approval of the CAT NMS Plan is critical to the timely and considered selection of the Plan Processor. Since the Bidders submitted their Bids, the Participants have expended substantial effort in analyzing potential solutions for the consolidated audit trail (''CAT'') by gathering and evaluating data and information from a variety of market participants, including Bidders, broker-dealers, vendors, regulators and others. As a result, since the original Bid date, the Participants have made substantial strides in identifying characteristics of an optimal solution and formalizing these determinations in the proposed CAT NMS Plan and related technical documents. Given the development of the requirements for an optimal solution for the CAT, the Participants believe that waiting until after the approval of the CAT NMS Plan to permit the Shortlisted Bidders to revise their Bids will shortchange the Bid process to the detriment of the final plan. Moreover, given the passage of time since the original Bids, Bidders have indicated that new technological and other beneficial solutions are now available that may further improve the Bids, and, ultimately, the proposed solutions.

In addition, the Participants believe that delaying the Bid revision process until after the approval of the CAT NMS Plan will prevent Bidders from submitting, and the Participants from adequately reviewing the most relevant, informative and fulsome Bids before selecting a Plan Processor. Specifically, Rule 613(a)(2)(i) requires the Participants to select the Plan Processor within two months after effectiveness of the CAT NMS Plan. The Participants anticipate permitting the Shortlisted Bidders to revise their Bids, pursuant to Section VI(D) of the Selection Plan, after approval of the CAT NMS Plan, if there are substantial changes to the CAT NMS Plan before the CAT NMS Plan is approved by the Commission. Therefore, the Participants will have only a short time period of two months to analyze the Shortlisted Bids—Bids that are likely to have substantial revisions after the approval of the CAT NMS Plan for the reasons discussed above. Given the very large amount of information to digest in the revised Bids and the importance of appropriately analyzing such information, the Participants do not believe that two months will be sufficient to select the Plan Processor given the limitations of the current Selection Plan. However, if the Shortlisted Bidders are able to revise their Bids to reflect the provisions of the proposed CAT NMS Plan and any draft technical materials, as well as any new technology or other relevant developments, prior to the approval of the CAT NMS Plan, then the Participants believe that they will be able to select the Plan Processor within the time limits imposed by Rule 613 in a more thoughtful and deliberative manner.

In addition, the Participants believe that providing the Selection Committee the discretion to further reduce the number of Shortlisted Bids, either before or after any revisions to Shortlisted Bids are accepted, would also facilitate the selection of the Plan Processor within the time limits imposed by Rule 613. Allowing the Selection Committee to reduce the number of Shortlisted Bids before approval of the CAT NMS Plan could allow the Participants to more efficiently select the Plan Processor by focusing attention on a more refined set of options during the limited two month time period for selection following approval of the CAT NMS Plan.

B. Requirements Pursuant to Rule 608(a)

1. Description of the Amendments to the Selection Plan

The Participants propose amending the Selection Plan to permit the Shortlisted Bidders to revise their Bids one or more times prior to approval of the CAT NMS Plan if the Selection Committee determines, by majority vote, subject to the applicable recusal provisions, that such revisions are necessary and appropriate. The proposed amendment would not affect Section VI(D) of the Selection Plan, which allows for revisions to Shortlisted Bids following Commission approval of the CAT NMS Plan.

The Participants also propose amending the Selection Plan to provide the Selection Committee discretion to narrow the set of Shortlisted Bids prior to approval of the CAT NMS Plan. Specifically, the proposed amendment would authorize another round of voting to narrow the set of Shortlisted Bids. This round of voting, which could occur either before or after any revisions to Shortlisted Bids are accepted, would be commenced upon at least a two-

[10] *See* 78 FR 69910 at 69917.

[11] *Id.*

[12] *Id.* at 69917–18.

thirds vote of the Selection Committee, and would proceed in a manner similar to the initial round for voting for the Shortlisted Bids. Each Voting Senior Officer would choose a first, second, and third choice Shortlisted Bid, with each choice receiving a weight of, respectively, three points, two points, and one point. The three bids receiving the highest cumulative number of points would constitute the new set of Shortlisted Bids. In the event of a tie that would result in more than three final Shortlisted Bids, the votes would be recounted, excluding each Voting Senior Officer's third choice. The three Shortlisted Bids receiving the largest number of cumulative votes in this recount would be the new Shortlisted Bids. If this recount were to result in a tie leading to a larger or equal number of final Shortlisted Bids than the initial count, the results of the initial count would constitute the new set of Shortlisted Bids. The proposed amendment also includes, for the sake of clarity, a provision ensuring that at least one Non-SRO Bid is included in the narrowed set of Shortlisted Bids. The individual scores and rankings under any vote to narrow the list of Shortlisted Bids shall be kept confidential.

Finally, the proposed amendment includes provisions with respect to the recusal of Participants that also are Shortlisted Bidders. Under this proposed provision, no Bidding Participant shall vote in the process narrowing the set of Shortlisted Bidders, if a Bid submitted by or including the Participant or an Affiliate of the Participant is a Shortlisted Bid.

2. Governing or Constituent Documents

Not applicable.

3. Implementation of Amendment

The terms of the proposed amendments will be operative immediately upon approval of the amendments by the Commission.

4. Development and Implementation Phases

Not applicable.

5. Analysis of Impact on Competition

The proposed amendments do not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act. The SROs believe that the amendments are reasonably designed to help assure that the SROs receive more updated and informed submissions from Shortlisted Bidders before the CAT NMS Plan is finalized, thereby helping to assure that the selection of the Plan Processor for the CAT NMS Plan proceeds efficiently within the timeframe provided by Rule 613. Moreover, the SROs believe that the amended process will facilitate the development of an audit trail that maximizes its regulatory utility while minimizing unnecessary costs, to the benefit of all market participants. Furthermore, providing the ability to narrow the list of Bidders at an earlier stage will prevent Bidders whose Bids are unlikely to be selected from misallocating their resources toward the further development of their Bid.

6. Written Understanding or Agreements Relating to Interpretation of, or Participation in, Plan

Not applicable.

7. Statement That the Amendments Have Been Approved by the Plan Sponsors

The Selection Plan provides that amendments to the Selection Plan shall be effected by means of a written amendment that: (1) Sets forth the change, addition, or deletion; (2) is executed by over two-thirds of the Participants; and (3) is approved by the SEC pursuant to Rule 608, or otherwise becomes effective under Rule 608.[13]

The proposed amendments have been executed by eighteen of the Participants, and have consequently been approved by the SROs. One Participant which is also a Shortlisted Bidder, abstained from the decision whether to adopt these amendments to avoid potential conflicts of interest.

8. Terms and Conditions of Access

Not applicable.

9. Method of Determination and Imposition, and Amount of, Fees and Charges

Not applicable.

10. Method and Frequency of Processor Evaluation

Not applicable.

11. Dispute Resolution

Not applicable.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the Amendment to the Plan is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number 4–668 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number 4–668. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the Amendment to the Plan that are filed with the Commission, and all written communications relating to the Amendment to the Plan 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 10:00 a.m. and 3:00 p.m. Copies of the filing will also be available for inspection and copying at the Participants' principal offices. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number 4–668 and should be submitted on or before March 13, 2015.

By the Commission.

Brent J. Fields,

Secretary.

Exhibit A

Proposed new language is italicized; proposed deletions are in [brackets].

PROPOSED AMENDMENT TEXT

Plan Processor Evaluation and Selection Plan

I. Definitions

* * * * *

(X) ''Shortlisted Bid'' means a Bid submitted by a Qualified Bidder and selected as a Shortlisted Bid by the Selection Committee pursuant to

[13] 17 CFR 242.608.

Section VI(B) *and, if applicable, pursuant to Section VI(C)(3)* of the Plan.

* * * * *

III. Operating Committee

* * * * *

(E) Conflicts and Recusals

A Participant may recuse itself from voting on any matter under consideration by the Operating Committee if the Participant determines that voting on such matter raises a conflict of interest. Except as provided in Sections V(B)(2), ~~and~~ V(B)(3), *and V(B)(4)* of the Plan, no Participant is automatically recused from voting on any matter.

* * * * *

V. Selection Committee

* * * * *

(B) Voting

* * * * *

(2) No Bidding Participant shall vote on whether a Shortlisted Bidder will be permitted to revise its Bid pursuant to *Section VI(C)(2) or* Section VI(D)(1) below if a Bid submitted by or including the Participant or an Affiliate of the Participant is a Shortlisted Bid.

(3) No Bidding Participant shall vote in the process narrowing the set of Shortlisted Bidders as set forth in Section VI(C)(3) if a Bid submitted by or including the Participant or an Affiliate of the Participant is a Shortlisted Bid.

(4) No Bidding Participant shall vote in the second round set forth in Section VI(E)(4) below if a Bid submitted by or including the Participant or an Affiliate of the Participant is part of the second round.

(5) All votes by the Selection Committee shall be confidential and non-public. All such votes will be tabulated by an independent third party approved by the Operating Committee, and a Participant's individual votes will not be disclosed to other Participants or to the public.

* * * * *

VI. RFP Bid Evaluation and Plan Processor Selection

* * * * *

(C) Formulation of the CAT NMS Plan

(1) The Selection Committee shall review the Shortlisted Bids to identify optimal proposed solutions for the consolidated audit trail and provide descriptions of such proposed solutions for inclusion in the CAT NMS Plan. This process may, but is not required to, include iterative discussions with Shortlisted Bidders to address any aspects of an optimal proposed solution that were not fully addressed in a particular Bid.

(2) Prior to the approval of the CAT NMS Plan, all Shortlisted Bidders will be permitted to revise their Bids one or more times if the Selection Committee determines, by majority vote, that such revision(s) are necessary or appropriate.

(3) Prior to approval of the CAT NMS Plan, and either before or after any revisions to Shortlisted Bids are accepted, the Selection Committee may determine, by at least a two-thirds vote, to narrow the number of Shortlisted Bids to three Bids, in accordance with the process in this Paragraph (C)(3).

(a) Each Voting Senior Officer shall select a first, second, and third choice from among the Shortlisted Bids.

(b) A weighted score shall be assigned to each choice as follows:

- *First—3 points.*
- *Second—2 points.*
- *Third—1 point.*

(c) The three Shortlisted Bids receiving the highest cumulative scores will be the new set of Shortlisted Bids.

(d) In the event of a tie that would result in more than three final Shortlisted Bids, the votes shall be recounted, omitting each Voting Senior Officer's third choice, in order to break the tie. If this recount produces a tie that would result in a number of final Shortlisted Bids larger than or equal to that from the initial count, the results of the initial count shall constitute the final set of Shortlisted Bids.

(e) To the extent there are Non-SRO Bids that are Shortlisted Bids, the final Shortlisted Bids selected pursuant to this Section VI(C)(3) must, if possible, include at least one Non-SRO Bid. If following the vote set forth in this Section VI(C)(3), no Non-SRO Bid was selected as a final Shortlisted Bid, the Non-SRO Bid receiving the highest cumulative votes shall be retained as a Shortlisted Bid.

(f) The third party tabulating votes, as specified in Section V(B)(5), shall identify to the Selection Committee the new set of Shortlisted Bids, but shall keep confidential the individual scores and rankings of the Shortlisted Bids from the process in this Paragraph (C)(3).

(4) The Participants shall incorporate information on optimal proposed solutions in the CAT NMS Plan, including cost-benefit information as required by SEC Rule 613.

[FR Doc. 2015–02840 Filed 2–10–15; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74211; File No. SR–BX–2015–008]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NASDAQ OMX BX, Inc. Relating to a Typographical Error

February 5, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 [2] thereunder, notice is hereby given that, on January 29, 2015, NASDAQ OMX BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to modify the BX Rulebook at Options Chapter VI, Section 1 to correct a typographical error in a previous rule change.

The Exchange requests that the Commission waive the 30-day operative delay period contained in Exchange Act Rule 19b–4(f)(6)(iii).[3]

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxbx.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6)(iii).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to modify the Exchange's Rulebook at Chapter VI, Section 1 to correct a typographical error associated with the numbering in the Rulebook. The Exchange filed a proposed rule change which was recently approved,[4] which caused duplicative numbering in the Rulebook. The purpose of this filing is administrative in nature; the Exchange solely desires to correct the numbering in Chapter VI, Section 1. There are no substantive changes being made in this proposed rule change.

Specifically, the Exchange proposes to renumber the second (1) in Chapter IV, Section 1(e), related to a Directed Order, and continue numbering the paragraphs thereafter. The Exchange is also proposing to remove Chapter IV, Sections 1(e)(4) and (7) which are currently reserved.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[5] in general, and furthers the objectives of Section 6(b)(5) of the Act[6] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by correcting a typographical error in the BX Rulebook. The Exchange believes that correcting the error will avoid confusion when referring to the Rulebook. The proposed amendments are non-substantive.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change corrects a typographical error in the Rulebook and is non-substantive. This proposed rule change will not impact competition in any respect.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[7] and Rule 19b–4(f)(6) thereunder.[8]

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that the proposal does not affect the protection of investors or the public interest, because it is designed solely to correct a typographical error. Similarly, the Exchange states that the change does not impact competition in any respect. The Exchange notes that a waiver of the 30-day operative delay will allow the correction to the Rulebook to take effect immediately, thereby avoiding any confusion when referring to the Rulebook. For this reason, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission designates the proposed rule change to be operative upon filing.[9]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov. Please include File Number SR–BX–2015–008 on the subject line.*

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2015–008. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2015–008 and should be submitted on or before March 4, 2015.

[4] Securities Exchange Act Release No. 34–73784 (December 8, 2014), 79 FR 73930 (December 12, 2014) (SR–BX–2014–049). The filing attempted to add new subsection (e)(1) to BX Options Chapter VI, Section 1, a subsection that already contained other text.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[9] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Brent J. Fields,

Secretary.

[FR Doc. 2015–02749 Filed 2–10–15; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74209; File No. SR–NYSEMKT–2015–09]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Part 8 of the NYSE MKT Company Guide to (i) Require the Chief Executive Officers of Listed Companies to Provide Annual Certification with Respect to the Company's Compliance with the Requirements of Part 8 of the Company Guide, (ii) Require Listed Companies to Submit Annual and Interim Written Affirmations, and (iii) Make Certain Other Clarifying Changes

February 5, 2015.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on February 3, 2015, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Part 8 of the NYSE MKT Company Guide (the ''Company Guide'') to (i) require the chief executive officers (each, a ''CEO'') of listed companies to provide annual certification with respect to the company's compliance with the requirements of Part 8 of the Company Guide, (ii) require listed companies to submit annual and interim written affirmations, and (iii) make certain other clarifying changes. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

NYSE MKT proposes to amend Part 8 of the Company Guide to (i) require the CEOs of listed companies to provide annual certification with respect to the company's compliance with the requirements of Part 8 of the Company Guide, (ii) require listed companies to submit annual and interim written affirmations, and (iii) make certain other clarifying changes. Part 8 of the Company Guide sets forth the Exchange's requirements with respect to listed company corporate governance, including majority board independence, independence requirements for audit committee and compensation committee members, and that executive compensation and director nominations must be under the jurisdiction of fully independent compensation and nominating committees or be determined by a majority of the independent directors acting as a group.

The Exchange proposes to add a new Section 810(a) to Part 8 of the Company Guide that would require each listed company CEO, subject to certain exceptions discussed below, to certify to the Exchange each year that he or she is not aware of any violation by the listed company of the NYSE MKT corporate governance listing standards set forth in Part 8 of the Company Guide, qualifying the certification to the extent necessary to reflect any violations of which the CEO is aware. A blank copy of the CEO certification form required by Section 810(a) will be posted on the Exchange's Web site.

The Exchange proposes to add a new Section 810(b) to Part 8 of the Company Guide that would require each listed company CEO to promptly notify the Exchange in writing after any executive officer of the listed company becomes aware of any noncompliance with any applicable provisions of Part 8.

The Exchange proposes to add a new Section 810(c) to Part 8 of the Company Guide that would require each listed company to submit an executed written affirmation of compliance with Part 8 of the Company Guide annually to the Exchange. In addition, each listed company would be required to promptly submit an interim written affirmation after becoming aware of any noncompliance with Part 8 of the Company Guide or in the event of any change in the composition of its board of directors or the audit, compensation or nominating committees thereof. If the interim written affirmation relates to noncompliance with Part 8 of the Company Guide and is being submitted to the Exchange to satisfy the notice requirement of Section 810(b), it must be signed by the company's CEO. Blank copies of the affirmation forms required by Section 810(c) will be posted on the Exchange's Web site.

The Exchange believes that the proposed additions to Part 8 of the Company Guide will focus the CEO and senior management of listed companies on compliance with the Exchange's corporate governance requirements. Commentary to the proposed Section 810(a) would include a statement to this effect. The Exchange notes that proposed Section 810 is comparable to Section 303A.12 of the NYSE Listed Company Manual and that part of the rationale for adopting proposed Section 810 is to harmonize NYSE MKT's requirements more closely with those of the NYSE, as the two exchanges are under common ownership and regulated by the same staff in NYSE Regulation.

With certain exceptions noted below, Part 8 of the Company Guide is generally not applicable to asset-backed issuers and other passive business organizations (such as royalty trusts) or to derivatives and special purpose securities listed pursuant to Exchange Rules 1000, and 1200 and Sections 106, 107 and 118B as well as to issuers that only have debt or preferred stock listed on the Exchange. However, to the extent Rule 10A–3 under the Act requires such issuers to comply with Section 803 of the Company Guide, the Exchange proposes to amend Sections 801(c) and 801(g) to clarify that such issuers must also comply with new Sections 810(b) and 810(c). Because such issuers need only comply with Section 803 to the extent required by Rule 10A–3 under the Act, the Exchange will be able to obtain all relevant information to

[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

monitor their compliance via the submissions required by Sections 810(b) and 810(c). In the Exchange's view, it is therefore not necessary to subject such issuers to Section 810(a). Section 801(d) would be amended to clarify that registered management investment companies (including closed-end funds and open-end funds) would be subject to proposed Section 810. Section 801(f) would be amended to make clear that foreign issuers would be subject to Section 810, notwithstanding any exemptions from the requirements of Part 8 they may receive pursuant to Section 110.

The Exchange also proposes to amend Section 801 to delete the text which provides that each listed company must provide prompt notification to the Exchange after an executive officer of the listed company becomes aware of any material noncompliance by the listed company with the applicable requirements specified or referenced in Part 8. This text would be redundant upon adoption of proposed Section 810(b), which contains a comparable requirement that the Exchange be provided with prompt notification of any noncompliance with the applicable provisions of Part 8 of the Company Guide, although Section 810(b) will require that a company's CEO provide this notification while the current rule only states that it be provided by the listed issuer. The Exchange proposes to delete a similar redundant notification requirement from Section 802(b).

The Exchange proposes to amend Section 801(d) to correct an erroneous cross-reference. The reference to Section 803B(5) is amended to refer to Section 803B(4), which is the section containing the provision referenced in Section 801(d) (*i.e.,* requiring audit committees for investment companies to establish procedures for the confidential, anonymous submission of concerns regarding questionable accounting or auditing matters by employees of the investment adviser, administrator, principal underwriter, or any other provider of accounting related services for the investment company, as well as employees of the investment company). Also, the Exchange proposes to amend Section 801(d) to clarify that, in addition to Section 803B(1) as the rule currently states, closed end funds are subject to Section 803B(4) and to any of the other provisions of Section 803 to the extent required by Rule 10A–3 under the Exchange Act.

Finally, the Exchange proposes to amend Section 803(B)(1)(b) to correct an obsolete reference. Specifically, the Exchange proposes to delete the reference to Independence Standards Board Standard 1 and replace it with a reference to The Public Company Accounting Oversight Board Rule 3526 which has superseded the deleted text.[4]

The Exchange proposes to implement the changes discussed herein on February 4, 2015.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)[5] of the Act, in general, and furthers the objectives of Section 6(b)(5)[6] of the Act, in particular in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that the proposed amendment is consistent with the investor protection objectives of the Act in that its purpose is to enable the Exchange's regulatory staff to more effectively monitor listed companies' compliance with the Exchange's corporate governance requirements as an integral part of the Exchange's responsibilities as a self-regulatory organization and to encourage companies to focus more thoroughly on their compliance with the applicable requirements.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The Exchange notes that the proposed amendments to Part 8 of the Company Guide are comparable in substance to Section 303A.12 of the NYSE Listed Company Manual and are designed to permit the Exchange's regulatory staff to more effectively monitor listed companies' compliance with the Exchange's corporate governance requirements. Because the purpose of the proposed amendment is to adopt corporate governance affirmation requirements comparable to those of the NYSE, the Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[7] and Rule 19b–4(f)(6) thereunder.[8] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.[9]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[10] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[11] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange believes that the proposal will enable its regulatory staff to more effectively monitor listed companies' compliance with the Exchange's corporate governance requirements and will also encourage companies to focus more thoroughly on their fulfillment of these requirements. The Commission believes that advancing these goals benefits investors and serves the public interest by helping assure that listed companies adhere to sound governance practices. The Commission further notes that the Exchange's proposed approach to monitoring listed companies'

[4] *See* Securities Exchange Act Release No. 58415 (August 22, 2008), 73 FR 50843 (August 28, 2008) (PCAOB–2008–03).

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(3)(A)(iii).

[8] 17 CFR 240.19b–4(f)(6).

[9] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6)(iii).

compliance is comparable, though not identical, to the approach used by the New York Stock Exchange. Thus the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[12]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[13] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEMKT–2015–09 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEMKT–2015–09. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the NYSE's principal office and on its Internet Web site at *www.nyse.com.* All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEMKT–2015–09 and should be submitted on or before March 4, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Brent J. Fields,

Secretary.

[FR Doc. 2015–02747 Filed 2–10–15; 8:45 am]

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[12] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[13] 15 U.S.C. 78s(b)(2)(B).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 74213; File No. SR–ICEEU–2015–004]

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing of Proposed Rule Change Relating to Additional European Sovereign CDS Contracts

February 5, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 27, 2015, ICE Clear Europe Limited (''ICE Clear Europe'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by ICE Clear Europe. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The principal purpose of the change is to provide for the clearance of additional CDS contracts that are Western European sovereign CDS contracts referencing the Kingdom of the Netherlands, the Republic of Finland, the Kingdom of Sweden and the Kingdom of Denmark (the ''Additional WE Sovereign Contracts'').

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICE Clear Europe 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. ICE Clear Europe has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of these statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is for ICE Clear Europe to offer clearing of Western European sovereign CDS contracts referencing four additional reference entities: the Kingdom of the Netherlands, the Republic of Finland, the Kingdom of Sweden and the Kingdom of Denmark. ICE Clear Europe currently clears CDS contracts referencing six other Western European sovereigns: Ireland, the Republic of Italy, the Portuguese Republic, the Kingdom of Spain, the Kingdom of Belgium and the Republic of Austria.[3] ICE Clear Europe believes clearance of the Additional WE Sovereign Contracts will benefit the markets for credit default swaps on Western European sovereigns by offering to market participants the benefits of clearing, including reduction in counterparty risk and safeguarding of

[3] *See* Securities Exchange Act Release No. 34–71920 (April 9, 2014), 79 FR 21331 (April 15, 2015) (File No. SR–ICEEU–2014–04) (order approving rule changes to clear Western European sovereign CDS contracts); Securities Exchange Act Release No. 34–73737 (December 4, 2014), 79 FR 73372 (December 10, 2014) (File No. SR–ICEEU–2014–18) (order approving rule changes to clear additional Western European sovereign CDS contracts) (the ''Prior WE Sovereigns Orders'').

margin assets pursuant to clearing house rules.

The Additional WE Sovereign Contracts will constitute ''Non-STEC Single Name Contracts'' for purposes of the CDS Procedures and accordingly will be governed by Paragraph 10 of the CDS Procedures, consistent with treatment of the Western European sovereign CDS contracts currently cleared by ICE Clear Europe. Clearing of the Additional WE Sovereign Contracts will not require any changes to ICE Clear Europe's existing Clearing Rules and Procedures. In addition, clearing of the Additional WE Sovereign Contracts will not require any changes in ICE Clear Europe's risk management framework (including relevant policies) or margin model.[4]

2. Statutory Basis

ICE Clear Europe believes that clearing of the proposed Additional WE Sovereign Contracts is consistent with the requirements of Section 17A of the Act[5] and regulations thereunder applicable to it, including the standards under Rule 17Ad–22.[6] The Additional WE Sovereign Contracts are substantially similar to the other Western European sovereign CDS contracts currently cleared by ICE Clear Europe. The additional contracts will be cleared in the same manner as such other Western European sovereign CDS contracts, consistent with ICE Clear Europe's existing clearing arrangements and related financial safeguards, protections, risk management policies and procedures, and margin methodology (including those enhancements for Western European sovereign contracts previously adopted and approved in the Prior WE Sovereigns Orders). In ICE Clear Europe's view, clearing of the Additional WE Sovereign CDS contracts, under such terms and arrangements, is consistent with the prompt and accurate clearance of and settlement of securities transactions and derivative agreements, contracts and transactions cleared by ICE Clear Europe, the safeguarding of securities and funds in the custody or control of ICE Clear Europe and the protection of investors and the public interest, within the meaning of Section 17A(b)(3)(F) of the Act.[7] Clearing of the Additional WE Sovereign Contracts will also satisfy the relevant requirements of Rule 17Ad–22,[8] as discussed below.

Financial Resources. ICE Clear Europe will apply its existing margin methodology for Western European sovereign CDS contracts to the Additional WE Sovereign Contracts. ICE Clear Europe believes that this model will provide sufficient margin to cover its credit exposure to its clearing members from clearing such contracts, consistent with the requirements of Rule 17Ad–22(b)(2) and Rule 17Ad–22(d)(14).[9] In addition, ICE Clear Europe believes the CDS Guaranty Fund, under its existing methodology, will, together with the required margin, provide sufficient financial resources to support the clearing of Additional WE Sovereign Contracts consistent with the requirements of Rule 17Ad–22(b)(3).[10]

Operational Resources. ICE Clear Europe will have the operational and managerial capacity to clear the Additional WE Sovereign Contracts as of the commencement of clearing, consistent with the requirements of Rule 17Ad–22(d)(4).[11] ICE Clear Europe believes that its existing systems used for sovereign CDS contracts are appropriately scalable to handle the clearing of the Additional WE Sovereign Contracts.

Settlement. ICE Clear Europe will use its existing settlement procedures (including for physical settlements), account structures and approved financial institutions as used in other sovereign CDS clearing for the Additional WE Sovereign Contracts. ICE Clear Europe believes that clearing of the Additional WE Sovereign Contracts will therefore be consistent with the requirements of Rule 17Ad–22(d)(5), (12) and (15).[12]

Default Procedures. ICE Clear Europe's existing Rules and default management policies and procedures for CDS will apply to the Additional WE Sovereign Contracts. ICE Clear Europe believes that the Rules and procedures allow for it to take timely action to contain losses and liquidity pressures and to continue meeting its obligations in the event of clearing member insolvencies or defaults, including in respect of Additional WE Sovereign Contracts, in accordance with Rule 17Ad–22(d)(11).[13]

Governance. As discussed in further detail in the Prior WE Sovereigns Orders, although the margin model applicable to Western European sovereign CDS contracts, including the Additional WE Sovereign Contracts, may result in clearing members being subject to different margin charges based on their domicile and correlation with the underlying sovereign, ICE Clear Europe believes that the margin model properly aligns the margin requirements to the risks presented by particular clearing members. Moreover, the model operates without the need for ICE Clear Europe (or its management, Board or CDS Risk Committee) to exercise discretion concerning particular clearing members or the margin levels applicable to them. As a result, in ICE Clear Europe's view, the clearing of such contracts does not result in unfair discrimination among clearing members within the meaning of Section 17A(b)(3)(F) of the Act and Rule 17Ad–22(d)(8).[14]

B. Self-Regulatory Organization's Statement on Burden on Competition

ICE Clear Europe does not believe the proposed Additional WE Sovereign Contracts would have any impact, or impose any burden, on competition not necessary or appropriate in furtherance of the purpose of the Act. ICE Clear Europe does not anticipate that its commencement of clearing for the Additional WE Sovereign Contracts will adversely affect the trading market for those contracts or for CDS more generally. Specifically, allowing clearing of the Additional WE Sovereign Contracts will provide market participants with the additional choice to have their transactions in these types of contracts cleared, and should generally promote the further development of the market for these contracts. Moreover, ICE Clear Europe has established fair and objective criteria for eligibility to clear the Additional WE Sovereign Contracts, consistent with its criteria for other cleared CDS.

Although clearance of Additional WE Sovereign Contracts may result in higher margin requirements for some clearing members as a result of the general wrong way risk component of the margin model, ICE Clear Europe believes that the model properly aligns margin requirements to the risks presented by such clearing members with respect to the Additional WE Sovereign Contracts. As a result, ICE Clear Europe is of the view that these

[4] For a description of previously approved changes to ICE Clear Europe's risk management framework to accommodate clearing of Western European sovereign CDS contracts, see the Prior WE Sovereigns Orders. ICE Clear Europe has performed a variety of empirical analyses related to clearing of the Additional WE Sovereign Contracts under its margin methodology, including back tests and stress tests.

[5] 15 U.S.C. 78q–1.

[6] 17 CFR 240.17Ad–22.

[7] 15 U.S.C. 78q–1(b)(3)(F).

[8] 17 CFR 240.17Ad–22.

[9] 17 CFR 240.17Ad–22(b)(2), (d)(14).

[10] 17 CFR 240.17Ad–22(b)(3).

[11] 17 CFR 240.17Ad–22(d)(4).

[12] 17 CFR 240.17Ad–22(d)(5), (12) and (15).

[13] 17 CFR 240.17Ad–22(d)(11).

[14] 15 U.S.C. 78q–1(b)(3)(F); 17 CFR 240.17Ad–22(d)(8).

changes are necessary and appropriate in furtherance of the purpose of the Act and the Commission's regulations thereunder, including the financial resources and risk management requirements of Rule 17Ad–22.[15] Furthermore, ICE Clear Europe does not believe that any such increase in margin requirements would significantly affect the ability of clearing members or other market participants to continue to clear CDS, consistent with the risk management requirements of the clearing house, or otherwise limit market participants' choices for selecting clearing services. Accordingly ICE Clear Europe does not believe that clearance of the Additional WE Sovereign Contracts will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the acceptance of the Additional WE Sovereign Contracts for clearing have not been solicited or received. ICE Clear Europe will notify the Commission of any written comments received by ICE Clear Europe.

III. Date of Effectiveness of the Proposed Rule Change 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 the 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 Number SR–ICEEU–2015–004 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ICEEU–2015–004. 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 ICE Clear Europe and on ICE Clear Europe's Web site at *https://www.theice.com/clear-europe/regulation.*

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ICEEU–2015–004 and should be submitted on or before March 4, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Brent J. Fields,

Secretary.

[FR Doc. 2015–02751 Filed 2–10–15; 8:45 am]

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[15] 17 CFR 240.17Ad–22.

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74210; File No. SR–BOX–2014–28]

Self-Regulatory Organizations; BOX Options Exchange LLC; Order Approving Proposed Rule Change Adopt BOX Rule 7300 To Allow the Exchange To Trade Preferenced Orders

February 5, 2015.

I. Introduction

On December 8, 2014, BOX Options Exchange LLC (''BOX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] to permit BOX Options Participants (''Participants'') to submit orders for which a Market Maker is designated to receive an Preferred allocation on the Exchange (''Preferenced Orders''). The proposed rule change was published in the **Federal Register** on December 24, 2014.[3] This order approves the proposed rule change.

II. Description of the Proposed Rule Change

As described in more detail below, the Exchange proposes to adopt new BOX Rule 7300 to establish a program that will permit Participants to submit Preferenced Orders to Market Makers and for Maker Makers to receive Preferred allocations on such orders.[4] As proposed, a Preferenced Order is any order, whether on a single options instrument or on a Complex Order Strategy, for which a Preferred Market Maker is designated with respect to such order, upon submission of such order to BOX.[5] A Preferred Market Maker is a Market Maker designated as such by a Participant with respect to an order submitted by such Participant to BOX.[6]

All order types and designations available on BOX will be eligible to be entered as Preferenced Orders, except for Customer Cross Orders (which do not involve market makers) and Directed Orders (which relate to BOX's PIP and COPIP matching algorithms).[7]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 73878 (December 18, 2014), 79 FR 77579 (''Notice'').

[4] *See* Notice, *supra* note 3 at 77579.

[5] Proposed BOX Rule 7300(a)(1).

[6] Proposed BOX Rule 7300(a)(2).

[7] Proposed BOX Rule 7300(d).

Preferenced Orders will be treated the same as other orders submitted to the Exchange, including being executed in price/time priority in accordance with the existing matching algorithm on the Exchange,[8] with some exceptions as described below and in proposed Rule 7300.[9] Although Complex Orders may be submitted as Preferenced Orders, such orders will be given the same treatment as Complex Orders submitted without designation.[10]

Proposed BOX Rule 7300(c)(2) requires that a Preferred Market Maker maintain a continuous two-sided market, pursuant to BOX Rule 8050(c)(1), throughout the trading day, in options classes for which it accepts Preferenced Orders, for 99% of the time the Exchange is open for trading in each such option class.[11] However, a Preferred Market Maker will not be required to quote in intra-day add-on series or series that have an expiration of nine months or greater in the classes for which it receives Preferenced Orders.[12]

Preferred Allocation

Pursuant to proposed BOX Rule 7300(c), when the total quantity of all orders available for execution on the Exchange against a Preferenced Order on a single options series is less than or equal to the executable quantity of the Preferenced Order at a given price level, all such orders at that price will be filled and the balance of the Preferenced Order, if any, will be executed, if possible, against orders at the next best price level.[13] At the final price level, where the remaining quantity of the Preferenced Order is less than the total quantity of orders on the Exchange available for execution, and after all Public Customer orders have been filled, the Preferred Market Maker will receive a Preferred allocation set forth below, provided that: (1) The price level is at the NBBO, (2) the Preferred Market Maker has an existing quote on the opposite side of the Preferenced Order that is at the NBBO at the time the Preferenced Order is received, and (3) the Preferred Market Maker would not receive an allocation greater than 40% if allocated according to the Exchange's normal price/time priority.[14]

The Preferred allocation will be limited by the total quantity of the Preferred Market Maker's quote and will be 40% of the remaining quantity of the Preferenced Order after all Public Customer orders are filled, or 50% of the remaining quantity if only one other executable, non-Public Customer order matches the Preferenced Order at the final price level.[15] Under the Exchange's proposal, Legging Orders will not be considered when determining whether the Preferred Market Maker receives its 40% or 50% allocation.[16]

Once the Preferenced Order is allocated to the Preferred Market Maker, or if no Preferred Allocation is made, BOX will distribute any remaining unallocated quantity of the Preferenced Order to all remaining orders and quotes, not including any Legging Order, that have not already received an allocation.[17] This includes any quote by a Preferred Market Maker if no Preferred allocation was previously made. Allocations will be made in order of time priority. Following the allocation of all remaining order and quotes described above, any remaining unallocated quantity of the Preferenced Order will be allocated to any Legging Order at the same price.[18]

III. Discussion and Commission Findings

The Commission has carefully reviewed the proposed rule change and finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.[19] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b) of the Act,[20] in general, and furthers the objectives of Section 6(b)(5) of the Act.[21] Section 6(b)(5) requires, among other things, that the rules of the national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

The Commission has previously approved rules of other national securities exchanges that provide for enhanced participation guarantees.[22] The Commission has closely scrutinized such exchange rule proposals where the percentage of enhanced participation would rise to a level that could have a material adverse impact on quote competition within a particular exchange.[23]

BOX's proposal to permit Preferred Market Makers to receive a 40% allocation (or 50% where there is only one other non-public customer order at the same price as the Preferenced Order) will not increase the overall percentage of an order that is guaranteed to the Preferred Market Maker beyond the currently acceptable threshold.[24] Under the proposal, the remaining portion of each order will be available for allocation based on the competitive bidding of market participants. Therefore, the Commission does not believe that the proposal will negatively impact quote competition or order flow on BOX.

A Preferred Market Maker will have to be quoting at, or better than, the NBBO at the time a Preferenced Order is received in order to obtain the 40% or 50% guarantee. The Commission

[8] *See* Notice, *supra* note 3 at 77579.

[9] Proposed BOX Rule 7300(b).

[10] *See* Notice, *supra* note 3 at 77581.

[11] Proposed BOX Rule 7300(a)(2).

[12] *Id.* Compliance with this requirement will be determined on a monthly basis, however, this does not relieve a Preferred Market Maker from meeting the quoting requirement on a daily basis, nor does it prohibit the Exchange from taking disciplinary action against a Preferred Market Maker for failing to meet this requirement each trading day. The Exchange will determine compliance with these obligations on a monthly basis. *Id.*

If a technical failure or limitation of a system of the Exchange prevents a Market Maker from maintaining, or prevents a Market Maker from communicating to the Exchange, timely and accurate electronic quotes in an issue, the duration of such failure shall not be considered in determining whether the Market Maker has satisfied its quoting obligation. The Exchange may consider other exceptions to this obligation based on a demonstrated legal or regulatory requirement or other mitigating circumstances. *Id.*

[13] Proposed BOX Rule 7300(c).

[14] Proposed BOX Rule 7300(c)(2).

[15] Proposed BOX Rule 7300(c)(2); *See* Notice, *supra* note 3 at 77580.

[16] Proposed BOX Rule 7300(c)(2).

[17] Proposed BOX Rule 7300(c)(3).

[18] Proposed BOX Rule 7300(c)(4).

[19] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[20] 15 U.S.C. 78f(b).

[21] 15 U.S.C. 78f(b)(5).

[22] *See* Securities Exchange Act Release No. 51759 (May 27, 2005), 70 FR 32860 (June 6, 2005) (SR–Phlx–2004–91) (''Phlx Order''); *see also e.g.,* Securities Exchange Act Release Nos. 47628 (April 3, 2003), 68 FR 17697 (April 10, 2003) (SR–CBOE–00–55) (''CBOE Order''); 52331 (August 24, 2005), 70 FR 51856 (August 31, 2005) (SR–ISE–2004–16) (''ISE Order''); 52506 (September 23, 2005), 70 FR 57340 (September 30, 2005) (SR–CBOE–2005–58); 59472 (February 27, 2009) 74 FR 9843 (March 6, 2009) (SRNYSEALTR–2008–14)(''NYSEALTR Order''); 60469 (August 10, 2009), 74 FR 41478 (August 17, 2009)(SR–NYSEArca–2009–73) (''NYSE Arca Notice''); 68070 (October 18, 2012), 77 FR 65037 (October 18, 2012) (SR–C2–2012–24) (''C2 Order''); and 74129 (January 23, 2015), 80 FR 4954 (January 29, 2015) (''BX Order'').

[23] *See* Phlx Order, *supra* note 22 at 32861.

[24] *Id. See also* CBOE Order, *supra* note 22 at 17708 (*citing* Securities Exchange Act Release No. 45936 (May 15, 2002), 67 FR 36279, 26280 (May 23, 2002); Securities Exchange Act Release No. 42835 (May 26, 2000), 65 FR 35683, 35685–66 (June 5, 2000); Securities Exchange Act Release No. 42455 (February 24, 2000), 65 FR 11388, 11398 (March 2, 2000); Securities Exchange Act Release No. 43100 (July 31, 2000), 65 FR 48778, 48787–88 (August 9, 2000)).

believes that it is critical that a Preferred Market Maker must not be permitted to step up and match the NBBO after it receives a directed order in order to receive the Preferred Allocation. In this regard, BOX's proposal prohibits notifying a DMM of an intention to submit a Directed Order so that such DMM could change its quotation to match the NBBO immediately prior to submission of the Directed Order, and then fade its quote. BOX submitted a letter to the Commission representing that it will provide the necessary protections against that type of conduct, and will proactively conduct surveillance for, and enforce against, such violations.[25]

BOX's proposed rules will require Preferred Market Makers to quote at a higher level than other marker makers who are not Preferred Market Makers. Currently, market makers on BOX are required to quote 60% of the trading day.[26] In order to receive the participation entitlement, Preferred Market Makers will be required to quote 99% of the trading day. The Commission believes that requiring heightened quoting by a market maker in order to be eligible to receive a Preferred Allocation is consistent with what other exchanges have required as part of their directed order programs.[27]

The Commission emphasizes that approval of this proposal does not affect a broker-dealer's duty of best execution. A broker-dealer has a legal duty to seek to obtain best execution of customer orders, and any decision to preference a particular Preferred Market Maker must be consistent with this duty.[28] A broker-dealer's duty of best execution derives from common law agency principles and fiduciary obligations, and is incorporated in SRO rules and, through judicial and Commission decisions, the antifraud provisions of the federal securities laws.[29] The duty of best execution requires broker-dealers to execute customers' trades at the most favorable terms reasonably available under the circumstances, *i.e.,* at the best reasonably available price.[30] The duty of best execution requires broker-dealers to periodically assess the quality of competing markets to assure that order flow is directed to the markets providing the most beneficial terms for their customer orders.[31] Broker-dealers must examine their procedures for seeking to obtain best execution in light of market and technology changes and modify those practices if necessary to enable their customers to obtain the best reasonably available prices.[32] In doing so, broker-dealers must take into account price improvement opportunities, and whether different markets may be more suitable for different types of orders or particular securities.[33]

For these reasons, the Commission believes that the proposal is consistent with the requirements of Section 6(b)(5) of the Act.[34]

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[35] that the proposed rule change (SR–BOX–2014–28) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[36]

Brent J. Fields,

Secretary.

[FR Doc. 2015–02748 Filed 2–10–15; 8:45 am]

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[25] *See* Letter from Bruce Goodhue, Chief Regulatory Officer, BOX, to David Hsu, Assistant Director, Commission, dated February 4, 2015.

[26] BOX Rule 8050(e).

[27] *See supra* note 22.

[28] *See, e.g., Newton* v. *Merrill, Lynch, Pierce, Fenner & Smith, Inc.,* 135 F.3d 266, 269–70, 274 (3d Cir.), cert. denied, 525 U.S. 811 (1998); *Certain Market Making Activities on Nasdaq,* Securities Exchange Act Release No. 40900 (Jan. 11, 1999) (settled case) (citing *Sinclair* v. *SEC,* 444 F.2d 399 (2d Cir. 1971); Arleen Hughes, 27 SEC 629, 636 (1948), *aff'd sub nom. Hughes* v. *SEC,* 174 F.2d 969 (D.C. Cir. 1949)). *See also* Order Execution Obligations, Securities Exchange Act Release No. 37619A (Sept. 6, 1996), 61 FR 48290 (Sept. 12, 1996) (''Order Handling Rules Release''); 51808 (June 9, 2005), 70 FR 37496, 37537–8 (June 29, 2005).

[29] Order Handling Rules Release, *supra* note 28 at 48322. *See also Newton,* 135 F.3d at 270. Failure to satisfy the duty of best execution can constitute fraud because a broker-dealer, in agreeing to execute a customer's order, makes an implied representation that it will execute it in a manner that maximizes the customer's economic gain in the transaction. *See Newton,* 135 F.3d at 273 (''[T]he basis for the duty of best execution is the mutual understanding that the client is engaging in the trade—and retaining the services of the broker as his agent—solely for the purpose of maximizing his own economic benefit, and that the broker receives her compensation because she assists the client in reaching that goal.''); *Marc N. Geman,* Securities Exchange Act Release No. 43963 (Feb. 14, 2001) (citing *Newton,* but concluding that respondent fulfilled his duty of best execution). *See also* Payment for Order Flow, Securities Exchange Act Release No. 34902 (Oct. 27, 1994), 59 FR 55006, 55009 (Nov. 2, 1994) (''Payment for Order Flow Final Rules''). If the broker-dealer intends not to act in a manner that maximizes the customer's benefit when he accepts the order and does not disclose this to the customer, the broker-dealer's implied representation is false. *See Newton,* 135 F.3d at 273–274.

[30] *Newton,* 135 F.3d at 270. Newton also noted certain factors relevant to best execution—order size, trading characteristics of the security, speed of execution, clearing costs, and the cost and difficulty of executing an order in a particular market. *Id.* at 270 n. 2 (citing Payment for Order Flow, Securities Exchange Act Release No. 33026 (Oct. 6, 1993), 58 FR 52934, 52937–38 (Oct. 13, 1993) (Proposed Rules)). *See In re E.F. Hutton & Co.,* Securities Exchange Act Release No. 25887 (July 6, 1988). *See also* Payment for Order Flow Final Rules, 59 FR at 55008–55009.

[31] Order Handling Rules Release, *supra* note 28 48322–48333 (''In conducting the requisite evaluation of its internal order handling procedures, a broker-dealer must regularly and rigorously examine execution quality likely to be obtained from different markets or market makers trading a security.''). *See also Newton,* 135 F.3d at 271; Market 2000: An Examination of Current Equity Market Developments V–4 (SEC Division of Market Regulation January 1994) (''Without specific instructions from a customer, however, a broker-dealer should periodically assess the quality of competing markets to ensure that its order flow is directed to markets providing the most advantageous terms for the customer's order.''); Payment for Order Flow Final Rules, 59 FR at 55009.

[32] Order Handling Rules, *supra* note 28 at 48323.

[33] Order Handling Rules, *supra* note 28 at 48323. For example, in connection with orders that are to be executed at a market opening price, ''[b]roker-dealers are subject to a best execution duty in executing customer orders at the opening, and should take into account the alternative methods in determining how to obtain best execution for their customer orders.'' Disclosure of Order Execution and Routing Practices, Securities Exchange Act Release No. 43590 (Nov.17, 2000), 65 FR 75414, 75422 (Dec. 1, 2000) (adopting new Exchange Act Rules 11Ac1–5 and 11Ac1–6 and noting that alternative methods offered by some Nasdaq market centers for pre-open orders included the mid-point of the spread or at the bid or offer).

[34] 15 U.S.C. 78f(b)(5).

[35] 15 U.S.C. 78s(b)(2).

[36] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74214; File No. SR–BATS–2015–08]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt an Options Regulatory Fee

February 5, 2015.

Pursuant to Section 19(b)(1) under the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 30, 2015, BATS Exchange, Inc. (the ''Exchange'' or ''BATS'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act,[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange filed a proposal to amend the fee schedule applicable to Members [5] and non-members of the Exchange pursuant to BATS Rules 15.1(a) and (c) to adopt an Options Regulatory Fee (''ORF'') in the amount of $0.0010 per contract side.

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to modify the ''Options Pricing'' section of its fee schedule to adopt an ORF in the amount of $0.0010 per contract side. The per-contract ORF will be assessed by the Exchange to each Member for all options transactions executed and cleared, or simply cleared, by the Member, that are cleared by OCC in the ''customer'' range, regardless of the exchange on which the transaction occurs. The ORF will be collected indirectly from Members through their clearing firms by OCC on behalf of the Exchange.

The ORF also will be charged for transactions that are not executed by a Member but are ultimately cleared by a Member. In the case where a non-Member executes a transaction and a Member clears the transaction, the ORF will be assessed to the Member who clears the transaction. In the case where a Member executes a transaction and another Member clears the transaction, the ORF will be assessed to the Member who clears the transaction. As a practical matter, it is not feasible or reasonable for the Exchange (or any SRO) to identify each executing member that submits an order on a trade-by-trade basis. There are countless executing market participants, and each day such participants can and often do drop their connection to one market center and establish themselves as participants on another. It is virtually impossible for any exchange to identify, and thus assess fees such as an ORF on, each executing participant on a given trading day.

Clearing members, however, are distinguished from executing participants because they remain identified to the Exchange regardless of the identity of the initiating executing participant, their location, and the market center on which they execute transactions. Therefore, the Exchange believes it is more efficient for the operation of the Exchange and for the marketplace as a whole to assess the ORF to clearing members.

The Exchange believes it is appropriate to charge the ORF only to transactions that clear as customer at the OCC. The Exchange believes that its broad regulatory responsibilities with respect to a Member's activities supports applying the ORF to transactions cleared but not executed by a Member. The Exchange's regulatory responsibilities are the same regardless of whether a Member executes a transaction or clears a transaction executed on its behalf. The Exchange regularly reviews all such activities, including performing surveillance for position limit violations, manipulation, front-running, contrary exercise advice violations and insider trading. These activities span across multiple exchanges.

The ORF is designed to recover a material portion of the costs to the Exchange of the supervision and regulation of Members' customer options business, including performing routine surveillances and investigations, as well as policy, rulemaking, interpretive and enforcement activities. The Exchange believes that revenue generated from the ORF, when combined with all of the Exchange's other regulatory fees and fines, will cover a material portion, but not all, of the Exchange's regulatory costs. The Exchange notes that its regulatory responsibilities with respect to Member compliance with options sales practice rules have been allocated to the Financial Industry Regulatory Authority, Inc. (''FINRA'') under a 17d–2 Agreement. The ORF is not designed to cover the cost of options sales practice regulation.

The Exchange will continue to monitor the amount of revenue collected from the ORF to ensure that it, in combination with its other regulatory fees and fines, does not exceed the Exchange's total regulatory costs. The Exchange expects to monitor its regulatory costs and revenues at a minimum on a semi-annual basis. If the Exchange determines regulatory revenues exceed or are insufficient to cover a material portion of its regulatory costs, the Exchange will adjust the ORF by submitting a fee change filing to the Commission. The Exchange will notify Members of adjustments to the ORF at least 30 calendar days prior to the effective date of the change.[6]

The Exchange believes it is reasonable and appropriate for the Exchange to charge the ORF for options transactions regardless of the exchange on which the transactions occur. The Exchange has a statutory obligation to enforce compliance by Members and their associated persons under the Act and the rules of the Exchange and to surveil for other manipulative conduct by market participants (including non-Members) trading on the Exchange. The Exchange cannot effectively surveil for such conduct without looking at and evaluating activity across all options markets. Many of the Exchange's market surveillance programs require the Exchange to look at and evaluate activity across all options markets, such as surveillance for position limit violations, manipulation, front-running and contrary exercise advice violations/expiring exercise declarations. Also, the Exchange and the other options exchanges are required to populate a consolidated options audit trail (''COATS'') [7] system in order to surveil a Member's activities across markets.

In addition to its own surveillance programs, the Exchange works with

[5] The term ''Member'' is defined as ''any registered broker or dealer, or any person associated with a registered broker or dealer, that has been admitted to membership in the Exchange. A Member will have the status of a ''member'' of the Exchange as that term is defined in Section 3(a)(3) of the Act.'' *See* Exchange Rule 1.5(n).

[6] The Exchange announced its intent to charge an ORF on October 7, 2014. *See BATS Global Markets Access Services Fee Changes for 2015 available at http://cdn.batstrading.com/resources/fee_schedule/2015/BATS-Global-Markets-Access-Services-Fee-Changes-for-2015.pdf.* The semi-annual review and notice provisions are similar to those adopted by NYSE Arca, Inc. (''NYSE Arca''). *See* Securities Exchange Act Release No. 70500 (September 25, 2013), 78 FR 60361 (October 1, 2013) (SR–NYSEArca–2013–91).

[7] COATS effectively enhances intermarket options surveillance by enabling the options exchanges to reconstruct the market promptly to effectively surveil certain rules.

other SROs and exchanges on intermarket surveillance related issues. Through its participation in the Intermarket Surveillance Group (''ISG''),[8] the Exchange shares information and coordinates inquiries and investigations with other exchanges designed to address potential intermarket manipulation and trading abuses. The Exchange's participation in ISG helps it to satisfy the requirement that it has coordinated surveillance with markets on which security futures are traded and markets on which any security underlying security futures are traded to detect manipulation and insider trading.[9]

The Exchange believes that charging the ORF across markets will avoid having Members direct their trades to other markets in order to avoid the fee and to thereby avoid paying for their fair share for regulation. If the ORF did not apply to activity across markets then a Member would send their orders to the least cost, least regulated exchange. Other exchanges do impose a similar fee on their member's activity, including the activity of those members on BATS.[10]

The Exchange notes that there is established precedent for an SRO charging a fee across markets, namely, FINRAs Trading Activity Fee [11] and the MIAX, NYSE Amex, NYSE Arca, CBOE, PHLX, ISE and BOX ORFs. While the Exchange does not have all of the same regulatory responsibilities as FINRA, the Exchange believes that, like other exchanges that have adopted an ORF, its broad regulatory responsibilities with respect to a Member's activities, irrespective of where their transactions take place, support a regulatory fee applicable to transactions on other markets. Unlike FINRA's Trading Activity Fee, the ORF would apply only to a Member's customer options transactions.

Implementation Date

The Exchange proposes to implement the ORF on February 2, 2015.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6 of the Act.[12] Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,[13] in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using any facility or system which the Exchange operates or controls. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues or providers of routing services if they deem fee levels to be excessive.

The Exchange believes the ORF is equitable and not unfairly discriminatory because it would be objectively allocated to Members in that it would be charged to all Members on all their transactions that clear as customer transactions at the OCC. Moreover, the Exchange believes the ORF ensures fairness by assessing fees to those Members that are directly based on the amount of customer options business they conduct. Regulating customer trading activity is much more labor intensive and requires greater expenditure of human and technical resources than regulating non-customer trading activity, which tends to be more automated and less labor-intensive. As a result, the costs associated with administering the customer component of the Exchange's overall regulatory program are materially higher than the costs associated with administering the non-customer component (*e.g.,* Member proprietary transactions) of its regulatory program. In addition, the Exchange believes the amount of the ORF is reasonable as it is lower than ORFs charged by other exchanges. By way of comparison, MIAX charges an ORF of $0.0045 per contract side,[14] and both NYSE Arca and NYSE Amex charge an ORF of $0.0055 per contract side.[15]

The ORF is designed to recover a material portion of the costs of supervising and regulating Members' customer options business including performing routine surveillances, investigations, examinations, financial monitoring, and policy, rulemaking, interpretive, and enforcement activities. The Exchange will monitor, on at least a semi-annual basis the amount of revenue collected from the ORF to ensure that it, in combination with its other regulatory fees and fines, does not exceed the Exchange's total regulatory costs. If the Exchange determines regulatory revenues exceed or are insufficient to cover a material portion of its regulatory costs, the Exchange will adjust the ORF by submitting a fee change filing to the Commission. The Exchange will notify Members of adjustments to the ORF via regulatory circular.

The Exchange has designed the ORF to generate revenues that, when combined with all of the Exchange's other regulatory fees, will be less than or equal to the Exchange's regulatory costs, which is consistent with the Commission's view that regulatory fees be used for regulatory purposes and not to support the Exchange's business side. In this regard, the Exchange believes that the initial level of the fee is reasonable.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The ORF is not intended to have any impact on competition. Rather, it is designed to enable the Exchange to recover a material portion of the Exchange's cost related to its regulatory activities. The proposed ORF is also comparable to fees charged by other options exchanges for the same or similar service. As stated above, the Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if the deem fee structures to be unreasonable or excessive.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on

[8] ISG is an industry organization formed in 1983 to coordinate intermarket surveillance among the SROs by co-operatively sharing regulatory information pursuant to a written agreement between the parties. The goal of the ISG's information sharing is to coordinate regulatory efforts to address potential intermarket trading abuses and manipulations.

[9] *See* Section 6(h)(3)(I) of the Act.

[10] Similar regulatory fees have been instituted by PHLX, ISE, and MIAX. *See* Securities Exchange Act Release Nos. 61133 (December 9, 2009), 74 FR 66715 (December 16, 2009) (SR–Phlx–2009–100); 61154 (December 11, 2009), 74 FR 67278 (December 18, 2009) (SR–ISE–2009–105); and 68711 (January 23, 2013), 78 FR 6155 (January 29, 2013) (SR–MIAX–2013–01).

[11] *See* Securities Exchange Act Release No. 47946 (May 30, 2003), 68 FR 3402 (June 6, 2003).

[12] 15 U.S.C. 78f.

[13] 15 U.S.C. 78f(b)(4).

[14] *See* MIAX fee schedule *available at http://www.miaxoptions.com/sites/default/files/MIAX_Options_Fee_Schedule_02012015.pdf* (last visited January 30, 2015).

[15] *See* NYSE Arca Options fee schedule *available at https://www.nyse.com/publicdocs/nyse/markets/arca-options/NYSE_Arca_Options_Fee_Schedule.pdf* (last visited January 30, 2015); *and* NYSE Amex fee schedule *available at https://www.nyse.com/publicdocs/nyse/markets/amex-options/NYSE_Amex_Options_Fee_Schedule.pdf* (last visited January 30, 2015).

this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [16] and paragraph (f) of Rule 19b–4 thereunder.[17] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BATS–2015–08 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BATS–2015–08. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BATS–2015–08, and should be submitted on or before March 4, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Brent J. Fields

Secretary.

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BILLING CODE 8011–01–P

[16] 15 U.S.C. 78s(b)(3)(A)(ii).

[17] 17 CFR 240.19b–4(f)(2).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74212; File No. SR–OCC–2015–04]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of a Proposed Rule Change, and Amendment 1 Thereto, To Expand the Officers Who May Declare That a Clearing Member Is Summarily Suspended

February 5, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 23, 2015, The Options Clearing Corporation (''OCC'') 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 OCC. On February 3, 2015, OCC filed Amendment No. 1 to the proposed rule change, which corrects an inadvertent grammatical error. 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

OCC proposes to amend its Rules to permit OCC to expand the officers who may declare that a clearing member is summarily suspended from OCC.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC 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. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to expand the number of OCC officers with the authority to summarily suspend a clearing member. Currently, OCC Rule 1102 provides that only OCC's Board of Directors (''Board'') and its Executive Chairman may summarily suspend a clearing member. OCC believes that, given the time sensitive nature of managing a clearing member default, it is prudent risk management to expand the number of officers with the authority to summarily suspend a clearing member so that OCC may begin its default management process and, in turn, take protective action as soon as possible.

Pursuant to OCC Rule 1102, OCC's Board and Executive Chairman have the authority to summarily suspend a clearing member. As set forth in Interpretation and Policy .01 of Rule 1102, such action constitutes a ''default'' with respect to the clearing member. OCC's ability to timely and effectively begin its clearing member default management process serves a key role in protecting OCC, non-defaulting clearing members and the public from potential consequential damage(s) that may be caused by the default of a clearing member. In order to provide OCC with the necessary tools to manage a clearing member default, Chapter XI of OCC's Rules provides OCC with the authority to take certain protective action(s) once a clearing member has been summarily suspended (and declared to be in default).[3] While OCC believes that the authority provided to it in Chapter XI of its Rules is sufficiently robust to manage a clearing member default, OCC may not exercise such authority unless and until a clearing member has been summarily

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] For example, OCC Rule 1106(a) provides OCC with significant flexibility with respect actions it may take in order to close out a defaulting clearing member's open long positions.

suspended by either the Board or the Executive Chairman.

In order to provide greater assurance that OCC would be able to timely and effectively manage a clearing member default, OCC is proposing to amend OCC Rule 1102 in order to expand the list of officers who may summarily suspend a clearing member to include OCC's President or a designee of the Executive Chairman [4] or President of the rank of Senior Vice President or higher (each a ''Designed Officer'').[5] OCC believes that the proposed change will provide it with additional operational flexibility because more individuals would be able to timely summarily suspend a clearing member and thereby allow OCC to exercise its authority to manage a clearing member default. OCC's clearing member default management process is designed to protect OCC, non-defaulting clearing members and the public from the defaulting clearing member without materially impacting financial markets.[6] By providing additional officers with the authority to summarily suspend a clearing member, and thereby allow OCC to begin its default management processes, there would be greater assurance that OCC would timely take action(s) necessary to protect itself, non-defaulting clearing members and the public from a defaulting clearing member. OCC is also proposing to amend Rule 1102 to require notification to the Board as soon as practicable should a Designated Officer summarily suspend a clearing member.[7] The addition of such a requirement would ensure that the Board is timely informed of activities at OCC.

Furthermore, OCC proposes to make conforming amendments consistent with the above to Article VI, Section 25 of its By-Laws and OCC Rule 707, which concern the summary suspension of clearing members that participate in OCC's cross-margining programs. Specifically, Article VI, Section of OCC's By-Laws and OCC Rule 707 will be amended to explicitly state that the Board of Directors or a Designated Officer may summarily suspend a clearing member based on a cross-margining related default.

Except for the changes described above, no other changes are proposed to OCC's suspension or default management processes as set forth in the Rules, including a clearing member's right to appeal a summary suspension in accordance with OCC Rule 1110.

2. Statutory Basis

OCC believes the proposed rule change is consistent with Section 17A(b)(3)(F) of the Securities Exchange Act of 1934, as amended (the ''Act'') because the proposed rule change is intended to safeguard the securities and funds which are in the custody and control of OCC.[8] As described above, by expanding the list of officers with the authority to summarily suspend a clearing member to include Designated Officers, OCC would better ensure that it timely begins its clearing member default management processes. Such process safeguards the securities and funds which are in the custody or control of OCC, or for which it is responsible, because it protects OCC, non-defaulting clearing members and the public from the defaulting clearing member. OCC does not believe that the proposed rule change is inconsistent with any rules of OCC, including any rules proposed to be amended.

(B) Clearing Agency's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose a burden on competition.[9] OCC believes the proposed rule change would not unfairly inhibit access to OCC's services or disadvantage or favor any particular user in relationship to another user because the proposed rule change only concerns the officers with the authority to summarily suspend a clearing member. The proposed rule change does not affect the conditions under which OCC may summarily suspend a clearing member, or OCC's rights with respect to a suspended clearing member.

For the foregoing reasons, OCC believes that the proposed rule change is in the public interest, would be consistent with the requirements of the Act applicable to clearing agencies, and would not impose a burden on competition.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were not and are not intended to be solicited with respect to the proposed rule change and none have been received.

III. Date of Effectiveness of the Proposed Rule Change 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 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 Number SR–OCC–2015–04 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–OCC–2015–04. 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

[4] OCC filed Amendment No. 1 in order to correct an inadvertent grammatical error. Specifically, a comma after the word ''Executive Chairman'' was removed because it caused the description of the proposed rule change to not be consistent with the text of the proposed rule change.

[5] OCC's proposal is similar to the summary suspension process employed by the National Securities Clearing Corporation (''NSCC''). *See* NSCC Rule 46, Section 3.

[6] A description of OCC's default management process is located at: *http://www.theocc.com/risk-management/default-rules/*

[7] OCC staff will notify the Board within two hours of the summary suspension.

[8] 15 U.S.C. 78q–1(b)(3)(F).

[9] 15 U.S.C. 78q–1(b)(3)(I).

those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of OCC and on OCC's Web site at *http://www.theocc.com/components/docs/legal/rules_and_bylaws/sr_occ_15_04.pdf*.

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–OCC–2015–04 and should be submitted on or before March 4, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Brent J. Fields,

Secretary.

[FR Doc. 2015–02750 Filed 2–10–15; 8:45 am]

BILLING CODE 8011–01–P

[10] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: 30-Day notice.

SUMMARY: The Small Business Administration (SBA) is publishing this notice to comply with requirements of the Paperwork Reduction Act (PRA) (44 U.S.C. Chapter 35), which requires agencies to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission. This notice also allows an additional 30 days for public comments.

DATES: Submit comments on or before March 13, 2015.

ADDRESSES: Comments should refer to the information collection by name and/or OMB Control Number and should be sent to: *Agency Clearance Officer,* Curtis Rich, Small Business Administration, 409 3rd Street SW., 5th Floor, Washington, DC 20416; and *SBA Desk Officer,* Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Curtis Rich, Agency Clearance Officer, (202) 205–7030 *curtis.rich@sba.gov.*

Copies: A copy of the Form OMB 83–1, supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

SUPPLEMENTARY INFORMATION This data collection is needed to fill the current void in information available about women's participation in the corporate market. It will be used to enable the development of specific and actionable recommendations to increase opportunity for women-owned businesses to obtain corporate contracts and make an even greater contribution to the U.S. economy. Respondents will be women business owners in the U.S. and managers of corporate supplier diversity programs.

Solicitation of Public Comments:

Comments may be submitted on (a) whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

Summary of Information Collections:

(1) *Title:* Women's Participation in Corporate Supplier Diversity Programs.

Description of Respondents: Women business owners in the U.S. and managers of corporate supplier diversity programs.

Form Number: N/A.

Estimated Annual Respondents: 3024.

Estimated Annual Responses: 3024.

Estimated Annual Hour Burden: 732.3.

Curtis B. Rich,

Management Analyst.

[FR Doc. 2015–02774 Filed 2–10–15; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments

ACTION: 60-day notice and request for comments.

SUMMARY: The Small Business Administration (SBA) intends to request approval, from the Office of Management and Budget (OMB) for the collection of information described below. The Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. Chapter 35 requires federal agencies to publish a notice in the **Federal Register** concerning each proposed collection of information before submission to OMB, and to allow 60 days for public comment in response to the notice. This notice complies with that requirement.

DATES: Submit comments on or before April 13, 2015.

ADDRESSES: Send all comments to Rachel Newman Karton, Program Analyst, Office of Entrepreneurial Development, Small Business Administration, 409 3rd Street SW., 6th Floor, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Rachel Newman Karton, Program Analyst, Office of Entrepreneurial Development, *Rachel.newman@sba.gov,* 202–619–1816, or Curtis B. Rich, Management Analyst, 202–205–7030, *curtis.rich@sba.gov*.

SUPPLEMENTARY INFORMATION: Each form is used to notify recipients of grant awards and cooperative agreement awards. Form 1222 is used also to document logistical and budgetary information gathered from the awardees application and proposal. Awardees/Respondents are universities, colleges, state and local government, for-profit and non-profit organizations. Form 1224 is used to certify the cost sharing by the recipient.

Solicitation of Public Comments:

SBA is requesting comments on (a) Whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

Summary of Information Collection:

(1) Title: Notice of Award and Grant/Cooperative Agreement Cost Sharing Proposal.

Description of Respondents: SBA Grant Recipients.

Form Number: SBA Forms 1222 and 1224.

Total Estimated Annual Responses: 2,745.

Total Estimated Annual Hour Burden: 205,440.

Curtis B. Rich,

Management Analyst.

[FR Doc. 2015–02772 Filed 2–10–15; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments

ACTION: 60-day notice and request for comments.

SUMMARY: The Small Business Administration (SBA) intends to request approval, from the Office of Management and Budget (OMB) for the collection of information described below. The Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. chapter 35 requires federal agencies to publish a notice in the **Federal Register** concerning each proposed collection of information before submission to OMB, and to allow 60 days for public comment in response to the notice. This notice complies with that requirement.

DATES: Submit comments on or before April 13, 2015.

ADDRESSES: Send all comments to Renee Mascarenas, Financial Specialist, Denver Finance Center, Small Business Administration, 721 19th Street, 3rd Floor, Denver, CO 80202.

FOR FURTHER INFORMATION CONTACT: Renee Mascarenas, Financial Specialist, Denver Finance Center, *renee.mascarenas@sba.gov* 303–844–7179, or Curtis B. Rich, Management Analyst, 202–205–7030, *curtis.rich@sba.gov.*

SUPPLEMENTARY INFORMATION: SBA Form 172 is only used by lenders for loans that have been purchased by SBA and are being serviced by approved SBA lending partners. The lenders use the SBA Form 172 to report loan payment data to SBA on a monthly basis. The purpose of this reporting is to (1) show the remittance due SBA on a loan serviced by participating lending institutions (2) update the loan receivable balances.

Solicitation of Public Comments

SBA is requesting comments on (a) Whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

Summary of Information Collection

Title: Transaction Report on Loans Serviced by Lender.

Description of Respondents: SBA Lenders.

Form Number: SBA Form 172.

Total Estimated Annual Responses: 4,724.

Total Estimated Annual Hour Burden: 4,130.

Curtis B. Rich,

Management Analyst.

[FR Doc. 2015–02763 Filed 2–10–15; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 9034]

Privacy Act; System of Records: Medical Records, State–24.

SUMMARY: Notice is hereby given that the Department of State proposes to amend an existing system of records, Medical Records, State–24, pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a), and Office of Management and Budget Circular No. A–130, Appendix I.

DATES: This system of records will be effective March 23, 2015, unless we receive comments that will result in a contrary determination.

ADDRESSES: Any persons interested in commenting on the amended system of records may do so by writing to the Director; Office of Information Programs and Services, A/GIS/IPS; Department of State, SA–2; 515 22nd Street NW.; Washington, DC 20522–8100.

FOR FURTHER INFORMATION CONTACT: John Hackett, Acting Director; Office of Information Programs and Services, A/GIS/IPS; Department of State, SA–2; 515 22nd Street NW.; Washington, DC 20522–8100, or at *Privacy@state.gov.*

SUPPLEMENTARY INFORMATION: The Department of State proposes that the current system will retain the name ''Medical Records'' (previously published at 74 FR 24891). The information contained in these records is used to administer the Department of State's medical program. These records are utilized and reviewed by medical and administrative personnel of the Office of Medical Services (MED) in providing health care to the individuals eligible to participate in the medical program. The system also serves to record and monitor the current status of the professional credentials of Department of State Foreign Service, Civil Service and Locally Employed Staff healthcare providers. The proposed system will include modifications to the following sections: Categories of individuals, Categories of records, Safeguards, Retrievability, and administrative updates.

The Department's report was filed with the Office of Management and Budget. The amended system description, ''Medical Records, State–24,'' will read as set forth below.

Joyce A. Barr,

Assistant Secretary for Administration, U.S. Department of State.

STATE–24

SYSTEM NAME:

Medical Records

SYSTEM LOCATION:

Department of State, Office of Medical Services, 2401 E Street NW., Washington, DC 20522 and all health units and other facilities of the Office of Medical Services, domestic and overseas; U.S. Coast Guard Operations Systems Center.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

U.S. Government employees and their family members, Locally Employed Staff, and any other individuals eligible to participate in the medical program of the U.S. Department of State as authorized by either section 904 of the Foreign Service Act of 1980 (22 U.S.C. 4084) or other applicable legal authority.

CATEGORIES OF RECORDS IN THE SYSTEM:

Categories of records include full name; Social Security number; date of birth; address; email address; phone number; State Global Identifier (SGID); reports of medical examinations and related documents; reports of treatments and other health services rendered to individuals; narrative summaries of hospital treatments; personal medical histories; reports of on-the-job injuries or illnesses; reports on medical evacuation; and/or any other types of individually identifiable health information generated or used in the course of conducting health care operations. This system includes records that contain protected health information, and does not include records maintained by the Department of State and/or other employers in their capacity as employers. This system also includes certain records maintained as part of the Department's Employee Assistance Program pursuant to 5 CFR part 792.

The system also includes providers' professional credentials. This may include professional degrees, addresses, emails, and phone numbers for direct-hire Foreign Service, Civil Service medical personnel, and Locally Employed Staff. The system includes copies of professional credentials, including licenses, and certifications (Professional, Clinical, Drug

Enforcement Administration (DEA), clinical privileges information, and National Provider Identifier (NPI)).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.S.C. 4084; Public Law 99–570 §§ 7361–7362; and 5 CFR part 792.

PURPOSE:

The information contained in these records is used to administer the Department of State's medical program. These records are utilized and reviewed by medical and administrative personnel of the Office of Medical Services (MED) in providing health care to the individuals eligible to participate in the medical program. The system also serves to record and monitor the current status of the professional credentials of Department of State Foreign Service, Civil Service and Locally Employed Staff healthcare providers.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Department of State periodically publishes in the **Federal Register** its standard routine uses, which apply to all of its Privacy Act systems of records. These notices appear in the form of a Prefatory Statement. These standard routine uses apply to Medical Records, State–24.

The following are additional routine uses of information from these files, for which no authorization or opportunity to agree or object to disclosure is required by the subject of the information:

A. To another health care provider, a group health plan, a health insurance issuer, or a health maintenance organization for purposes of carrying out treatment, payment, or health care operations;

B. To a parent, guardian or other person acting *in loco parentis* with respect to the subject of the information;

C. To a health oversight agency or public health authority authorized by law to investigate or otherwise oversee the relevant conduct or conditions of the Department of State's medical program, or for such oversight activities as audits; civil, administrative, or criminal proceedings or actions; inspections; and licensure or disciplinary action;

D. To a public health authority (domestic or foreign) that is authorized by law to collect or receive protected health information for the purpose of preventing or controlling disease, injury, or disability, including, but not limited to, the reporting of disease, injury, vital events such as birth or death, and the conduct of public health surveillance, public health investigations, and public health interventions;

E. To the U.S. Department of Health and Human Services (HHS), when required by the Secretary of HHS;

F. To the United States Coast Guard (USCG) Health, Safety & Work-Life (HSW), as necessary for maintenance of the Department of State's Electronic Health Record system;

G. To a public health authority or other appropriate government authority (domestic or foreign) authorized by law to receive reports of child abuse or neglect;

H. To a person subject to the jurisdiction of the Food and Drug Administration (FDA) with respect to an FDA-regulated product or activity for which that person has responsibility, for the purpose of activities related to the quality, safety, or effectiveness of such FDA-regulated product or activity;

I. To a person who may have been exposed to a communicable disease or may otherwise be at risk of contracting or spreading a disease or condition, to the extent MED is authorized by law to notify such person and as necessary in the conduct of a public health intervention or investigation;

J. To a government authority (domestic or foreign), including a social service or protective services agency, authorized by law to receive reports of abuse, neglect or domestic violence (1) to the extent such a disclosure is required by law; (2) where in the exercise of professional judgment, the disclosure is necessary to prevent serious harm to the individual or other potential victims; or (3) where, if the subject of the information is incapacitated, a law enforcement, or other public official authorized to receive the report, represents that the information sought is not intended to be used against the individual and that an immediate enforcement activity that depends upon the disclosure would be adversely affected by waiting until the individual is able to agree to the disclosure;

K. To the Department of Justice, as required by law, for the purpose of submitting information to the National Instant Criminal Background Check System;

L. In the course of any judicial or administrative proceeding in response to an order of a court or administrative tribunal;

M. To a law enforcement official (1) as required by law or in compliance with a court order or court-ordered warrant, a subpoena or summons issued by a judicial officer, a grand jury subpoena, or an administrative request, including an administrative subpoena or summons; (2) in response to a request for the purposes of identifying or locating a suspect, fugitive, material witness, or missing person; in response to a request for such information about an individual who is or is suspected to be a victim of a crime; (3) to provide notice of the death of an individual if there is a belief that the death may have resulted from criminal conduct; (4) where it is believed in good faith that such information constitutes evidence of criminal conduct; or (5) in response to an emergency, where it is believed such disclosure is necessary to alert law enforcement to the commission and nature of a crime, the location of such crime or of the victim(s) of such crime, and the identity, description, and location of the perpetrator of such crime;

N. As necessary in order to prevent or lessen a serious and imminent threat to the health or safety of a person or the public or to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat;

O. To authorized federal officials for the conduct of lawful intelligence, counter-intelligence, and other national security activities authorized by the National Security Act (50 U.S.C. 401, *et seq.*) and other applicable authorities (*e.g.,* Executive Order 12333);

P. To authorized federal officials for the provision of protective services to the President or other persons authorized by 18 U.S.C. 3056 or to foreign heads of state or other persons authorized by 22 U.S.C. 2709(a)(3), or for the conduct of investigations authorized by 18 U.S.C. 871 and 879;

Q. To Department of State officials for the purposes of clearance and suitability determinations, including (1) for a national security clearance conducted pursuant to Executive Orders 10450 and 12698; (2) for medical clearance determinations, consistent with the Foreign Service Act, including sections 101(a)(4), 101(b)(5), 504, and 904;

R. To a medical transcription or translation service for MED's purposes of carrying out treatment or health care operations;

S. To a correctional institution or a law enforcement official having lawful custody of an individual, if the correctional institution or law enforcement official represents that such information is necessary for the provision of health care to such individual, the health and safety of other individuals (including others at the correctional institution), or the administration and maintenance of the safety, security, and good order of the correctional institution;

T. To a coroner or medical examiner for the purpose of identifying a deceased person, determining a cause of death, or other duties as authorized by law;

U. To appropriate domestic or foreign government officials (including but not limited to the U.S. Department of Labor), as authorized by and to the extent necessary to comply with laws relating to workers' compensation or other similar programs, established by law, that provide benefits for work-related injuries or illnesses without regard to fault.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in hard copy and electronic form.

RETRIEVABILITY:

By individual name and/or date of birth; by patient identification number and family unit number.

SAFEGUARDS:

All users are given cyber security awareness training which covers the procedures for handling Sensitive but Unclassified information, including personally identifiable information (PII). Annual refresher training is mandatory. In addition, all Foreign Service and Civil Service employees and those Locally Employed Staff who handle PII are required to take the Foreign Service Institute distance learning course, PA 459, instructing employees on privacy and security requirements, including the rules of behavior for handling PII and the potential consequences if it is handled improperly. Before being granted access to medical records, a user must first be granted access to the Department of State computer system.

Remote access to the Department of State network from non-Department owned systems is authorized only to unclassified systems and only through a Department approved access program. Remote access to the network is configured with the Office of Management and Budget Memorandum M–07–16 security requirements, which include but are not limited to two-factor authentication and time out function.

All Department of State employees and contractors with authorized access have undergone a thorough background security investigation. Access to the Department of State, its annexes, and posts abroad is controlled by security guards and admission is limited to those individuals possessing a valid identification card or individuals under proper escort. All paper records containing personal information are maintained in secured file cabinets in restricted areas, access to which is limited to authorized personnel only. Access to computerized files is password-protected and under the direct supervision of the system manager. The system manager has the capability of printing audit trails of access from the computer media, thereby permitting regular and ad hoc monitoring of computer usage. When it is determined that a user no longer needs access, the user account is disabled.

RETENTION AND DISPOSAL:

Records are retired and destroyed in accordance with published Department of State Records Disposition Schedules as approved by the National Archives and Records Administration (NARA). More specific information may be obtained by writing to the Director, Office of Information Programs and Services, A/GIS/IPS, SA–2, Department of State, 515 22nd Street NW., Washington, DC 20522–8100.

SYSTEM MANAGER(S) AND ADDRESS:

Executive Director, Office of Medical Services, Room L209, Department of State, 2401 E Street NW., Washington, DC 20522.

NOTIFICATION PROCEDURES:

Individuals who have cause to believe that the Office of Medical Services might have medical records pertaining to them and want to request a copy of those medical records should write to Medical Records, Office of Medical Services, U.S. Department of State, 2401 E Street NW., Washington, DC 20522. Individuals who have cause to believe that the Office of Medical Services might have credential records pertaining to them and want to request a copy of those credential records should write to Quality Improvement, Office of Medical Services, U.S. Department of State, 2401 E Street NW., Washington, DC 20522. At a minimum, the individual requesting a copy of his or her medical records or credential records must include the following: name, date and place of birth, current mailing address and zip code, signature, a brief description of the circumstances that may have caused the creation of the records that are the subject of the request, and the approximate date(s) of those records.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to or amend medical records pertaining to them should write to the Director, Office of Information Programs and Services (address above). Individuals who wish to gain access to or amend credential records pertaining to them should write to the Director, Office of Information Programs and Services (address above).

CONTESTING RECORD PROCEDURES:

Individuals who wish to contest medical records pertaining to them should write to Medical Records, Office of Medical Services (address above). Individuals who wish to contest credential records pertaining to them should write to Quality Improvement, Office of Medical Services (address above).

RECORD SOURCE CATEGORIES:

Information contained in these records comes from the individual, hospitals, clinics, private medical providers, employers, and medical professionals employed by the Department of State.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS UNDER THE PRIVACY ACT:

None.

[FR Doc. 2015–02837 Filed 2–10–15; 8:45 am]

BILLING CODE 4710–36–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 January 31, 2015

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 302. 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–2014–0164.

Date Filed: January 31, 2015.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: Februrary 20, 2015.

Description: Application of Air Medical Limited requesting a forign air carrier permit to carry out ad-hoc charter passenger services

as required between a place in the United States and a place outside the United States.

Barbara J. Hairston,

Supervisory Dockets Officer, Docket Operations, Federal Register Liaison.

[FR Doc. 2015–02808 Filed 2–10–15; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. 2014–0905]

Petition for Exemption; Summary of Petition Received; Marek Management, LLC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Title 14 of the Code of Federal Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before March 3, 2015.

ADDRESSES: Send comments identified by docket number FAA–2014–0905 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 *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://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 the 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 concerning this action, contact Nia Daniels, 800 Independence Avenue SW., Washington, DC 20591. (202) 267–9677.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on February 6, 2015.

Lirio Liu,

Director, Office of Rulemaking.

Petition For Exemption

Docket No.: FAA–2014–0905

Petitioner: Marek Management, LLC

Section(s) of 14 CFR Affected: part 21, Subpart H; §§ 61.113(a) and (b); 91.113(b); 91.119(c); 91.121(a); 91.151(a); 91.405(a); 91.407(a)(1); 91.409(a); and 91.417(a) and (b)

Description of Relief Sought: Marek Management, LLC would like to commercially operate the Skyward I unmanned aircraft system to conduct mapping services and sensor deployment for the mining, agriculture, and mineral exploration industries.

[FR Doc. 2015–02815 Filed 2–10–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2015–02]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before February 23, 2015.

ADDRESSES: You may send comments identified by Docket Number FAA–2014–0482 using any of the following methods:

- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Fax:* Fax comments to the Docket Management Facility at 202–493–2251.
- *Hand Delivery:* Bring comments to the Docket Management Facility 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.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for 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: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility 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: Sandra K. Long, ARM–201, Office of Rulemaking, 800 Independence Ave SW., Washington DC 20591, 202–267–7414, *Sandra.long@faa-gov*

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on February 5, 2015.

Lirio Liu,

Director, Office of Rulemaking.

Petition for Exemption

Docket Nos.: FAA–2014–0482, FAA–2014–0992, FAA–2014–0993.

Petitioner: Commemorative Air Force.

Section of 14 CFR Affected: 14 CFR 91.319(c).

Description of Relief Sought: The petitioner is seeking relief to allow it to operate multiple single and multi-engine experimental aircraft over densely populated areas during the celebration of the 70th Anniversary of the WWII Victory in Europe Day on May 8, 2015.

[FR Doc. 2015–02785 Filed 2–10–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in California

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of limitation on claims for judicial review of actions by FHWA and other Federal agencies.

SUMMARY: This notice announces actions taken by FHWA and other Federal agencies that are final within the meaning of 23 U.S.C. 139(*l*)(1). The actions relate to a proposed highway project on Interstate 5 (I–5) from postmile R28.4 to R55.4 in the County of San Diego, State of California. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(*l*)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before July 13, 2015. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: For Caltrans: Mr. Bruce April, Deputy District Director, Division of Environmental Analysis, California Department of Transportation, 4050 Taylor Street, MS 242, San Diego, CA 92110, Regular Office Hours: 8:00 a.m. to 5:00 p.m., Telephone number (619) 688–0100, email *Bruce.April@dot.ca.gov.* For FHWA: Mr. Jacob Waclaw, Senior Transportation Engineer, 888 S. Figueroa, Ste 750, Los Angeles, CA 90017 Regular Office Hours: 6:00 a.m. to 4:00 p.m., Telephone number (213) 894–6697, email *Jacob.Waclaw@dot.gov.*

SUPPLEMENTARY INFORMATION: Notice is hereby given that FHWA and other Federal agencies have taken final agency actions subject to 23 U.S.C. 139(*l*)(1) by issuing licenses, permits, and approvals for the Interstate 5 North Coast Corridor Project in the State of California: The project is located in San Diego County along Interstate 5 (I–5) near La Jolla Village Drive in San Diego to Harbor Drive in Oceanside/Camp Pendleton, extending approximately 27 miles (postmile R28.4 to R55.4). The proposed project includes improvements to maintain or improve the existing and future traffic operations on the I–5 freeway. The preferred alternative consists of two high-occupancy vehicle (HOV)/Managed Lanes in each direction, separated by a painted buffer from the existing general purpose lanes in each direction. The design of the proposed bridge crossings of the lagoons have been modified to enhance lagoon function, and a number of natural and human community enhancements were developed for inclusion in the project. In addition, the project includes: Auxiliary lanes; soundwalls; braided ramps; two Direct Access Ramps; visual and community enhancements; ramp improvements; and appurtenant structures, including signage. The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Final Environmental Statement (FEIS) for the project, approved on October 23, 2013, in the FHWA Record of Decision (ROD) issued on January 22, 2015, and in other documents in the FHWA project records. The FEIS, ROD, and other project records are available by contacting Caltrans at the addresses provided above. The Final FEIS and ROD can be viewed and downloaded from the project Web site at *http://www.dot.ca.gov/dist11/envir.htm.* This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. General: National Environmental Policy Act [42 U.S.C. 4321–4347]; Federal-Aid Highway Act [23 U.S.C. 109].
2. Air: Clean Air Act, as amended [42 U.S.C. 7401–7671(q)].
3. Land: Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303]; Landscaping and Scenic Enhancement (Wildflowers) [23 U.S.C. 319].
4. Wildlife: Endangered Species Act [16 U.S.C. 1531–1544]; Fish and Wildlife Coordination Act [16 U.S.C. 661–667(e)]; Magnuson-Stevenson Fishery Conservation and Management Act of 1976, as amended [16 U.S.C. 1801 *et seq.*]; Migratory Bird Treaty Act, 16 U.S.C. 703–712.
5. Historic and Cultural Resources: Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470f]; Archaeological Resources Protection Act of 1977 [16 U.S.C. 470aa–470mm]; Archaeological and Historic Preservation Act [16 U.S.C. 469–469c–2]; Native American Grave Protection and Repatriation Act [25 U.S.C. 3001–3013].
6. Social and Economic: Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(1)]; American Indian Religious Freedom Act [42 U.S.C. 1996]; Farmland Protection Policy Act [7 U.S.C. 4201–4209]; the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended [42 U.S.C. 61].
7. Wetlands and Water Resources: Clean Water Act, 33 U.S.C. 1251–1377 [Section 404, Section 401, Section 319]; Land and Water Conservation Fund Act [16 U.S.C. 460l–4–460l–11]; Safe Drinking Water Act [42 U.S.C. 300f *et seq.*]; Rivers and Harbors Act of 1899 [33 U.S.C. 401–406]; TEA–21 Wetlands Mitigation [23 U.S.C. 103(b)(6)(m), 133(b)(11)]; Flood Disaster Protection Act [42 U.S.C. 4001–4129].
8. Hazardous Materials: Comprehensive Environmental Response, Compensation, and Liability Act [42 U.S.C. 9601–9675]; Superfund Amendments and Reauthorization Act of 1986 [PL 99–499]; Resource Conservation and Recovery Act [42 U.S.C. 6901–6992(k)].

Executive Orders: E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898 Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514 Protection and Enhancement of Environmental Quality; E.O. 13112 Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(*l*)(1)

Dated: January 27, 2015.

Jermaine Hannon,

Director, Program Development, Federal Highway Administration, Sacramento, California.

[FR Doc. 2015–02668 Filed 2–10–15; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0335]

Parts and Accessories Necessary for Safe Operation; Dealers Choice Truckaway System, Inc. Exemption Application

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

ACTION: Notice of final disposition.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) announces its decision to grant Dealers Choice Truckaway System, Inc.'s (Truckmovers) exemption application to allow the use of ultra-high-molecular-weight polyethylene blocks to build up the height of the front end of towed vehicles in driveaway-towaway operations. The Federal Motor Carrier Safety Regulations (FMCSRs) permit the use of ''hardwood blocks of good quality'' for this purpose, but the use of materials other than hardwood blocks is not addressed. FMCSA believes the use of ultra-high-molecular-weight polyethylene plastic blocks will maintain a level of safety that is equivalent to the level of safety achieved without the exemption. While the Truckmovers exemption application requested relief for an estimated 250 drivers and CMVs, the Agency has decided that it is appropriate to extend the scope of the exemption to allow any motor carrier to use ultra-high-molecular-weight polyethylene support blocks in lieu of hardwood blocks.

DATES: This exemption is effective February 11, 2015 and ending February 13, 2017.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Huntley, Vehicle and Roadside Operations Division, Office of Carrier, Driver, and Vehicle Safety, MC–PSV, (202) 366–5370, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

Docket: For access to the docket to read background documents or comments submitted to notice requesting public comments on the exemption application, go to *www.regulations.gov* at any time or visit 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., ET, Monday through Friday, except Federal holidays. The on-line Federal document management system is available 24 hours each day, 365 days each year. The docket number is listed at the beginning of this notice.

SUPPLEMENTARY INFORMATION:

Background

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

Truckmovers Application for Exemption

Truckmovers applied for an exemption from 49 CFR 393.71(k)(4) to allow the use of ultra-high-molecular-weight polyethylene support blocks in lieu of hardwood blocks to increase the height of a towed vehicle in driveaway-towaway operations. A copy of the application is included in the docket referenced at the beginning of this notice.

In its application, Truckmovers states that without the proposed exemption it will not be able to utilize ultra-high-molecular-weight polyethylene support blocks because 49 CFR 393.71(k)(4) specifically requires the use of hardwood blocks to build up the height of the front end of a towed vehicle in driveaway-towaway operations. Truckmovers provided information regarding the development of ultra-high-molecular-weight polyethylene blocks with a compression rating of 3,300 psi, which can withstand extreme heat and cold. These blocks are not susceptible to decomposition and erosion like wood blocks, allowing for their re-use. The high compression strength of the ultra-high-molecular-weight polyethylene makes the blocks resistant to deformation under loading when secured with cargo securement devices, while wood can be compressed as a result of over-tightening of the cargo securement devices, and can crack and become loose in transit. For the reasons stated above, Truckmovers requests that its operators be permitted to use the ultra-high molecular polyethylene support blocks to increase the height of a towed vehicle in driveaway-towaway operations, instead of utilizing hardwood blocks as specified in the current regulation. Truckmovers believes that the use of ultra-high-molecular-weight polyethylene plastic blocks, in lieu of hardwood support blocks, will maintain a level of safety that is equivalent to the level of safety achieved without the exemption.

Comments

FMCSA published a notice of the application in the **Federal Register** on October 8, 2014, and asked for public comment (79 FR 60891). No comments were received.

FMCSA Decision

The FMCSA has evaluated the Truckmovers exemption application. The Agency believes that granting the temporary exemption to allow the use of ultra-high-molecular-weight polyethylene support blocks in lieu of hardwood blocks to increase the height of a towed vehicle in driveaway-towaway operations will provide a level of safety that is equivalent to, or greater than the level of safety achieved without the exemption. FMCSA agrees that ultra-high-molecular-weight polyethylene blocks will be less susceptible to material degradation than hardwood blocks, and that the use of these plastic blocks will help ensure that the towed vehicle will remain secure within the saddle mounts and will prevent shifting while in transit. While the Truckmovers exemption application requested relief for an estimated 250 drivers and CMVs, the Agency has decided that it is appropriate to extend the scope of the exemption to allow any motor carrier to use ultra-high-molecular-weight polyethylene support blocks in lieu of hardwood blocks to increase the height of a towed vehicle in driveaway-towaway operations.

Terms and Conditions for the Exemption

The Agency hereby grants the exemption for a two-year period, beginning February 11, 2015 and ending February 13, 2017. Any motor carrier that experiences a failure of the ultra-high-molecular-weight polyethylene support blocks must report the incident to FMCSA's Vehicle and Roadside Operations Division, 1200 New Jersey Avenue, Washington, DC 20590. The report must include information about the size of the support block and the weight upon the support block at the time the block was damaged. This information will enable FMCSA to gather information about the real-world experiences of carriers in using ultra-high-molecular-weight polyethylene support blocks.

The exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) Motor carriers and/or commercial motor vehicles fail 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(b).

Interested parties possessing information that would demonstrate that motor carriers using the plastic support blocks are not achieving the requisite statutory level of safety should immediately notify FMCSA. The Agency will evaluate any such information and, if safety is being compromised or if the continuation of the exemption is not consistent with 49 U.S.C. 31136(e) and 31315(b), will take immediate steps to revoke the exemption.

Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with or is inconsistent with this exemption with respect to a person operating under the exemption.

Issued on: January 30, 2015.

T.F. Scott Darling, III,

Acting Administrator.

[FR Doc. 2015–02811 Filed 2–10–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2011–0022]

Parts and Accessories Necessary for Safe Operation; Exemption Renewal for KBC Companies, LLC d/b/a Innovative Electronics

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

ACTION: Notice of renewal of exemption; request for comments.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) renews an exemption that allows commercial motor vehicle operators to use trailer-mounted electric brake controllers which monitor and actuate electric trailer brakes based on inertial forces developed in response to the braking action of the towing vehicle. The Agency has concluded that granting this exemption renewal to allow the use of trailer-mounted electric brake controllers will maintain a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption. However, the Agency requests comments on this issue, especially from anyone who believes this standard will not be maintained.

DATES: This exemption is effective from February 11, 2015 through February 13, 2017.

FOR FURTHER INFORMATION CONTACT: Mr. Luke W. Loy, Vehicle and Roadside Operations Division, Office of Bus and Truck Standards and Operations, MC–PSV, (202) 366–0676, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

Docket: For access to the docket to read background documents or public comments submitted in response to previous notices concerning the exemption application, go to *www.regulations.gov* at any time or visit 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., ET, Monday through Friday, except Federal holidays. The on-line Federal document management system is available 24 hours each day, 365 days each year. The docket number is listed at the beginning of this notice.

SUPPLEMENTARY INFORMATION:

Background

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

KBC Companies, LLC d/b/a Innovative Electronics has requested renewal of its exemption from 49 CFR 393.48 and 49 CFR 393.49 to allow commercial motor vehicle operators to tow trailers equipped with trailer-mounted electric brake controllers.

Basis for Renewing Exemption

On February 10, 2011(76 FR 7623), FMCSA published a notice requesting public comment on Innovative Electronics, Inc.'s application for an exemption from certain requirements in 49 CFR 393.48 and 49 CFR 393.49 to allow commercial motor vehicle operators to tow trailers equipped with trailer-mounted electric brake controllers. A correction was published on February 22, 2011 (76 FR 9853). After reviewing the public responses to the notice, the Agency granted the exemption on November 29, 2011 (76 FR 73763).

Innovative Electronics, Inc. has applied for a renewal of the two-year exemption. The FMCSA has determined preliminarily that it is appropriate to renew the exemption pending a review of public comments in response to the application for another two-year period, until February 13, 2017.

FMCSA is not aware of any evidence showing that the use of trailer-mounted electric brake controllers in compliance with the conditions of the original exemption has resulted in any degradation in safety. While trailer-mounted electric brake controllers are currently available for trailers not used for commercial purposes, renewing the exemption will allow rental companies to continue to rent trailers equipped with trailer-mounted electric brake controllers to commercial customers whose tow vehicles are not equipped with electric brake controllers. The Agency believes that extending the exemption for a period of two years will likely achieve a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption.

Terms and Conditions for the Exemption

During the renewal period, motor carriers must continue to meet the requirements of §§ 393.48(d) and 393.49(c) for hydraulic surge brakes, except that, for purposes of the exemption, those provisions shall have the following meaning, with ''surge brake'' replaced by ''trailer-mounted electric brake controller.''

§ 393.48 Brakes to be operative.

* * * * *

(d)(1) Trailer-mounted electric brake controllers are allowed on:

(i) Any trailer with a gross vehicle weight rating (GVWR) of 12,000 pounds or less, when its GVWR does not exceed 1.75 times the GVWR of the towing vehicle; and

(ii) Any trailer with a GVWR greater than 12,000 pounds, but less than 20,001 pounds, when its GVWR does not exceed 1.25 times the GVWR of the towing vehicle.

(2) The gross vehicle weight (GVW) of a trailer equipped with a trailer-mounted electric brake controller may be used instead of its GVWR to calculate compliance with the weight ratios specified in paragraph (d)(1) of this section when the trailer manufacturer's GVWR label is missing.

(3) The GVW of a trailer equipped with a trailer-mounted electric brake controller must be used to calculate compliance with the weight ratios specified in paragraph (d)(1) of this section when the trailer's GVW exceeds its GVWR.

(4) The trailer equipped with a trailer-mounted electric brake controller must meet the requirements of § 393.40.

§ 393.49 Control valves for brakes.

* * * * *

(c) Trailer-mounted electric brake controller exception. This requirement is not applicable to trailers equipped with trailer-mounted electric brake controllers that satisfy the conditions specified in 393.48(d).

The exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) Motor carriers and/or commercial motor vehicles fail 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.

Request for Comments

FMCSA requests comments from parties with data concerning the safety record of motor carriers utilizing trailer-mounted electric brake controllers, in accordance with the conditions of the original exemption, by March 13, 2015. 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(b)(1), FMCSA will take immediate steps to revoke the exemption.

Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with or is inconsistent with this exemption to allow commercial motor vehicle operators to use trailer-mounted electric brake controllers which monitor and actuate electric trailer brakes based on inertial forces developed in response to the braking action of the towing vehicle.

Issued On: January 30, 2015.

T.F. Scott Darling, III,

Acting Administrator.

[FR Doc. 2015–02810 Filed 2–10–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2000–7363; FMCSA–2002–13411]

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 10 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 March 4, 2015. Comments must be received on or before March 13, 2015.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. [Docket No. FMCSA–2000–7363; FMCSA–2002–13411], using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: Charles A. Horan, III, Director, Carrier, Driver and Vehicle Safety Standards, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved

absent such exemption.'' The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

II. Exemption Decision

This notice addresses 10 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 10 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Kirk G. Braegger (UT)
Ambrosio Calles (NM)
Jose G. Cruz (TX)
Harry P. Henning (PA)
Christopher L. Humphries (TX)
Ralph J. Miles (OR)
Thomas C. Rylee (GA)
Stanley B. Salkowski, III (PA)
Michael G. Thomas (PA)
William H. Twardus (DE)

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

III. Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 10 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (65 FR 45817; 65 FR 77066; 67 FR 71610; 67 FR 76439; 68 FR 10298; 70 FR 7545; 72 FR 7812; 74 FR 6689; 76 FR 9859; 78 FR 8689). Each of these 10 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the requirement specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption requirements. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

IV. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA–2000–7363; FMCSA–2002–13411), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, got to *http://www.regulations.gov* and put the docket number, ''FMCSA–2000–7363; FMCSA–2002–13411'' in the ''Keyword'' box, and click ''Search.'' When the new screen appears, click on ''Comment Now!'' button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period and may change this notice based on your comments.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov* and in the search box insert the docket number, ''FMCSA–2000–7363; FMCSA–2002–13411'' in the ''Keyword'' box and click ''Search.'' Next, click ''Open Docket Folder'' button choose the document listed to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Issued On: February 2, 2015.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2015–02805 Filed 2–10–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2006–25246; FMCSA–2010–0385]

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 9 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 March 7, 2015. Comments must be received on or before March 13, 2015.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. [Docket No. FMCSA–2006–25246; FMCSA–2010–0385], using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: Charles A. Horan, III, Director, Carrier, Driver and Vehicle Safety Standards, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

II. Exemption Decision

This notice addresses 9 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 9 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Glen T. Garrabrant (NJ)
Richard A. Guthrie (MT)
Alan L. Johnston (IL)
Bryon K. Lavender (OH)
Victor M. McCants (AL)
James E. Menz (NY)
William K. Otwell (LA)
Rance A. Powell (AL)
Shannon E. Rasmussen (WY)

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

III. Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 9 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (65 FR 66286; 66 FR 13825; 68 FR 10300; 70 FR 7546; 72 FR 180; 72 FR 7111; 72 FR 9397; 74 FR 6211; 74 FR 6212; 75 FR 77942; 76 FR 5425; 76 FR 9861; 78 FR 10250). Each of these 9 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the requirement specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption requirements.

These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

IV. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA–2006–25246; FMCSA–2010–0385), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, got to *http://www.regulations.gov* and put the docket number, ''FMCSA–2006–25246; FMCSA–2010–0385'' in the ''Keyword'' box, and click ''Search.'' When the new screen appears, click on ''Comment Now!'' button and type your

comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period and may change this notice based on your comments.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov* and in the search box insert the docket number, ''FMCSA–2006–25246; FMCSA–2010–0385'' in the ''Keyword'' box and click ''Search.'' Next, click ''Open Docket Folder'' button choose the document listed to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Issued On: February 2, 2015.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2015–02806 Filed 2–10–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

National Public Transportation/Transit-Oriented Development (TOD) Technical Assistance Ladders of Opportunity Initiative

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of funding opportunity and request for proposals (RFP).

SUMMARY: The Federal Transit Administration (FTA) announces a Notice of Funding Opportunity and Request for Proposals (RFP) for a new National Public Transportation/TOD Technical Assistance Initiative, which supports the *Ladders of Opportunity* initiative of the President and the Secretary of Transportation by providing technical assistance for transit-oriented development activities around public transportation stations, including technical assistance to economically distressed communities across the country. FTA has budgeted up to $4,000,000 over a four-year period and seeks proposals that will demonstrate the ability to organize a technical assistance team with practical expertise in a range of disciplines including public transportation, transit-oriented development, land use, urban planning, affordable housing, environmental justice and community-based economic development. This announcement is available on the FTA's Web site at: *www.fta.gov.*

This Notice of Funding Opportunity and RFP are posted in the FIND module of the government-wide electronic grants Web site at *http://www.grants.gov.*

DATES: Complete proposals are due by 11:59 p.m. EST on April 10, 2015.

ADDRESSES: All proposals must be submitted electronically through the *GRANTS.GOV* ''APPLY'' function. All entities intending to apply should initiate the process of registering on the *GRANTS.GOV* Web site immediately to ensure completion of registration before the submission deadline. Instructions for applying can be found in the ''FIND'' module of *GRANTS.GOV.* Mail and fax submissions will not be accepted.

FOR FURTHER INFORMATION CONTACT: For general program information, as well as proposal-specific questions, contact Kimberly Gayle at *Kimberly.Gayle@dot.gov* and (202) 366–1429. A TDD is available at 1–800–877–8339 (TDD/FIRS).

SUPPLEMENTARY INFORMATION:

I. Funding Opportunity Description

A. Authority

49 U.S.C. 5314 authorizes FTA to enter into contracts, cooperative agreements and other agreements to carry out a range of technical assistance activities to improve public transportation. FTA has identified $4,000,000 authorized under SAFETEA–LU, and will fund up to $1,000,000 for the first year, with plans to provide up to $3 million in additional funding for the remaining three years. The amount of funding that FTA will provide for each of the three subsequent years will be dependent upon annual performance reviews. There are no cost-sharing requirements for these funds.

B. Strategic Goals and Objectives

In this solicitation, FTA seeks proposals to provide technical assistance through the development of tools, guidance, and other resources for enhancing TOD within transportation corridors and around public transportation stations, including economically distressed areas.

This National Public Transportation/TOD Technical Assistance Initiative will build upon FTA's prior research, planning, technical assistance, and training efforts through the Transit Cooperative Research Program, the National Transit Institute and other outreach. The strategic goals of the initiative are: (1) Economic Development; (2) Equity and Quality of Life; and (3) Outreach, Education, and Facilitation.

C. Eligible Proposers

Eligible proposers are national non-profit organizations with technical expertise in public transportation, transit-oriented development, land use, urban planning, public finance, affordable housing, environmental justice and community-based economic development. FTA will award one (1) Cooperative agreement that will be between FTA and the selected proposer, which must have a substantial interest in the project and must not simply act as a pass-through for funds. The selected proposer will be directly responsible for the delivery of all services and products. Individuals, for-profit entities, public and Federal agencies are not eligible to apply directly for this solicitation. However, individuals, for-profit entities, public and Federal agencies are eligible to participate as third parties under the direction and leadership of eligible proposers.

II. Proposal Submission

Complete proposals must be submitted electronically through the GRANTS.GOV Web site by 11:59 EST on April 10, 2015. Late proposals will not be accepted. Proposers are encouraged to begin the process of registration on the GRANTS.GOV site well in advance of the submission deadline. Please note that the Funding Opportunity Number is DOT–FTA–TODTA–FY2015. The Catalog of Federal Domestic Assistance (CFDA) Number is 20.507.

Therese W. McMillan,

Acting Administrator.

[FR Doc. 2015–02807 Filed 2–10–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 314 (Sub–No. 7X)]

Chicago Central & Pacific Railroad Company—Abandonment Exemption—in Pottawattamie County, Iowa, and Douglas County, Neb

On January 22, 2015, Chicago, Central & Pacific Railroad Company (CC&P) filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon approximately 2.56 miles of interconnected track across and adjacent to the Missouri River in Iowa and Nebraska (the Line). The Line consists of: (1) Approximately 2.12 miles of rail line extending from milepost 510.62 in Council Bluffs, Pottawattamie County, Iowa, across the Missouri River to milepost 514.80 near North 25th Street E in Omaha, Douglas County, Neb.[1] and (2) the south leg of its wye track at Council Bluffs, extending from milepost 511.7 on CC&P's main line near Avenue K to the connection with the first line segment at North 16th Street, an additional distance of approximately 0.44 miles. The Line includes the station of Council Bluffs (which will remain open) and traverses United States Postal Service Zip Codes 51501 and 68110.

According to CC&P, the Line has not been used for the provision of rail common carrier service for over 20 years and there are no shippers located on the Line. Overhead traffic is handled via a switching arrangement with the Union Pacific Railroad Company (UP). CC&P states that in the unlikely event that the switching arrangement were to terminate, CC&P expects that it would continue to be able to serve customers in Omaha under an interline arrangement with UP or another carrier. CC&P further states that it seeks to abandon the Line primarily to facilitate the formal closure and removal of the Missouri River Bridge. Due to many years of bridge inactivity and the absence of shippers along the Line, the U.S. Coast Guard has deemed the bridge to be a navigation hazard and has demanded that it be removed.

According to CC&P, the Line does not contain federally granted rights-of-way. Any documentation in CC&P's possession will be made available promptly to those requesting it.

[1] According to CC&P, the Line includes a milepost equation (adjustment), which accounts for what might otherwise be perceived as a mileage discrepancy based on calculations applying the terminal milepost numbers.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, In Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979).

By issuing this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by May 12, 2015.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due by May 22, 2015, or 10 days after service of a decision granting the petition for exemption, whichever occurs first. Each OFA must be accompanied by a $1,600 filing fee. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment, the Line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than March 3, 2015. Each trail request must be accompanied by a $250 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to Docket No. AB 314 (Sub–No. 7X) and must be sent to: (1) Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001; and (2) Robert A. Wimbish, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 920, Chicago, IL 60606–2832. Replies to the petition are due on or before March 3, 2015.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Assistance, Governmental Affairs and Compliance at (202) 245–0238 or refer to the full abandonment regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Office of Environmental Analysis (OEA) at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Information Relay Service at 1–800–877–8339.

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by OEA will be served upon all parties of record and upon any other agencies or persons who comment during its preparation. Other interested persons may contact OEA to obtain a copy of the EA (or EIS). EAs in abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA generally will be within 30 days of its service.

Board decisions and notices are available on our Web site at ''*WWW.STB.DOT.GOV.*''

Decided: February 6, 2015.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Brendetta S. Jones,

Clearance Clerk.

[FR Doc. 2015–02835 Filed 2–10–15; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

Proposed Collection; Comment Request

SUMMARY: The U.S. Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Community Development Financial Institutions Fund (CDFI Fund), U.S. Department of the Treasury, is soliciting comments concerning the Community Development Financial Institutions (CDFI) Program Application and the Native American CDFI Assistance (NACA) Program Application.

DATES: Written comments should be received on or before April 13, 2015 to be assured of consideration.

ADDRESSES: Direct all comments to Mark Kudlowitz, Acting Program Manager, CDFI Program and Native Initiatives, at the Community Development Financial Institutions Fund, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20020, by email to *cdfihelp@cdfi.treas.gov* or by facsimile to (202) 508–0089. Please note this is not a toll free number.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Mark Kudlowitz, Acting Program Manager, CDFI Program and Native Initiatives, at the Community Development Financial Institutions Fund, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20020 by email to *cdfihelp@cdfi.treas.gov* or by facsimile to (202) 508–0089. Please note this is not a toll free number.

SUPPLEMENTARY INFORMATION:

Title: CDFI Program Application.

OMB Number: 1559–0021.

Type of Review: Non-Material revision to an existing Information Collection.

Abstract: The purpose of the CDFI Program and the NACA Program is to use federal resources to invest in CDFIs and to build their capacity to serve low-income people and communities that lack access to affordable financial products and services. The CDFI Fund is soliciting comments concerning the submission of supplemental application materials through a CDFI Fund-managed web-based application portal beginning in fiscal year 2016. This portal will allow CDFI Program and NACA Program applicants to complete and upload supplemental application information directly into the CDFI Fund-managed web-based application portal instead of uploading multiple attachments into the Grants.gov portal. Applicants will still be required to complete and submit the Office of Management and Budget's (OMB) official Application for Federal Assistance, Standard Form 424 (SF–424) via Grants.gov.

The proposed CDFI Fund-managed web-based process to submit supplemental application materials is expected to reduce the time needed to complete the CDFI Program and NACA Program Applications for all applicants. It is anticipated that certain demographic information already submitted within CDFI Fund managed information management systems will pre-populate certain data for applicants. Additionally, it is anticipated that, along with the demographic information, historical financial information supplied in previous applications will be pre-filled for prior applicants.

Type of Review: Non-Material revision to an existing Information Collection.

Affected Public: Private Sector: Businesses or other for-profits, Not-for-profit institutions; State, Local, and Tribal Governments.

Current Estimated Number of Respondents: 200.

Current Estimated Annual Time per Respondent: 100.5 hours.

Current Estimated Total Annual Burden Hours: 20,100 hours.

Requests for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record and may be published on the CDFI Fund Web site at *http://www.cdfifund.gov.* Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; 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.

Authority: 12 U.S.C. 4707; 12 CFR part 1805.

Dated: February 4, 2015.

Annie Donovan,

Director, Community Development Financial Institutions Fund.

[FR Doc. 2015–02779 Filed 2–10–15; 8:45 am]

BILLING CODE 4810–70–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 13362

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 13362, Consent to Disclosure of Return Information.

DATES: Written comments should be received on or before April 13, 2015 to be assured of consideration.

ADDRESSES: Direct all written comments to Christie A. Preston, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Martha.R.Brinson@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Consent to Disclosure of Return Information.

OMB Number: 1545–1856.

Form Number: 13362.

Abstract: The Consent Form is provided to external applicant that will allow the Service the ability to conduct tax checks to determine if an applicant is suitable for employment once they are determined qualified and within reach to receive an employment offer.

Current Actions: There are no changes being made to Form 13362 at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Federal Government.

Estimated Number of Respondents: 46,000.

Estimated Time per Respondent: 10 minutes.

Estimated Total Annual Burden Hours: 7,664.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 4, 2015.

Christie A. Preston,

IRS Reports Clearance Officer.

[FR Doc. 2015–02864 Filed 2–10–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). The IRS is soliciting comments concerning cooperative housing corporations.

DATES: Written comments should be received on or before April 13, 2015 to be assured of consideration.

ADDRESSES: Direct all written comments to Christie Preston, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this regulation should be directed to Sara Covington, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224 or through the internet at *Sara.L.covington@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Cooperative Housing Corporations.

OMB Number: 1545–1041.

Regulation Project Number: T.D. 8316

Abstract: Section 1.216–1(d)(2) of this regulation allows cooperative housing corporations to make an election whereby the amounts of mortgage interest and/or real estate taxes allocated to tenant-stockholders of the corporation will be based on a reasonable estimate of the actual costs attributable to each tenant-stockholders based on the number of shares held in the corporation.

Current Actions: There is no change to this existing regulation, but the estimated time per/respondents and estimated total annual burden hours have been readjusted.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals or households, and business or other for-profit organizations.

Estimated Number of Respondents: 2,500.

Estimated Time per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 1,250.

The following paragraph applies to all of the collections of information covered by this notice.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 4, 2015.

Christie Preston,

IRS Reports Clearance Officer.

[FR Doc. 2015–02862 Filed 2–10–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 2587

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 2587, Application for Special Enrollment Examination.

DATES: Written comments should be received on or before April 13, 2015 to be assured of consideration.

ADDRESSES: Direct all written comments to Christie A. Preston, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the collection should be directed to Martha R. Brinson, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Application for Special Enrollment Examination.

OMB Number: 1545–0949.

Form Number: 2587.

Abstract: Form 2587 is used by individuals to apply to take the Special Enrollment Examination to establish eligibility for enrollment to practice before the IRS. The information on the form is used by the Director of Practice to identify those individuals seeking to take the examination and to plan for the administration of the examination.

Current Actions: There are no changes being made to Form 2587 at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals.

Estimated Number of Respondents: 11,000.

Estimated Time per Respondent: 6 min.

Estimated Total Annual Burden Hours: 880.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 4, 2015.

Christie A. Preston,

IRS Reports Clearance Officer.

[FR Doc. 2015–02860 Filed 2–10–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Privacy Act of 1974, as Amended

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed alteration of a Privacy Act system of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the Department of the Treasury, Internal Revenue Service (IRS), gives notice of proposed alteration of a system of records entitled Treasury/IRS 34.013, Identification Media Files System for Employees and Others Issued IRS Identification.

DATES: Comments must be received no later than March 13, 2015. The proposed altered system will become effective March 23, 2015, unless the IRS receives comments which cause reconsideration of this action.

ADDRESSES: Comments should be sent to the Office of Privacy, Governmental Liaison and Disclosure, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224. Comments will be available for inspection and copying in the IRS Freedom of Information Reading Room (Room 1621) at the above address. The telephone number for the Reading Room is (202) 317–4997 (not a toll-free number).

FOR FURTHER INFORMATION CONTACT: David Silverman, Management and Program Analyst, IRS Office of Privacy, Governmental Liaison and Disclosure, (202) 317–6452 (not a toll-free number).

SUPPLEMENTARY INFORMATION: IRS is proposing to alter the Privacy Act system of records entitled Treasury/IRS 34.013, Identification Media Files System for Employees and Others Issued IRS Identification, to include the additional purpose of using the physical access control system to determine the most efficient way for IRS to manage office space.

IRS employees present their Federal Standard Homeland Security Policy Directive (HSPD)–12 Personal Identity Verification (PIV Card) to a card reader to enter IRS facilities. The card reader scans the employee's identity credentials and transmits the data to a server that verifies the employee's authorization to enter a facility.

This entrance information will be aggregated to protect employee privacy and will then be used to enable IRS to more efficiently determine what space it needs for optimum use of resources. A notice describing this system of records was most recently published at 77 FR 155, August 10, 2012. IRS Proposes to alter the system to include the collection of this data.

Dated: January 26, 2015.

Helen Goff Foster,

Deputy Assistant Secretary for Privacy, Transparency, and Records.

TREASURY/IRS 34.013

SYSTEM NAME:

Identification Media Files System for Employees and Others Issued IRS Identification

* * * * *

Purposes: Current Purpose Statement: To track the issuance and loss of identification media.

NEW PURPOSE STATEMENT:

Description of changes: To track the issuance and loss of identification media used to authenticate IRS employees and to plan for efficient allocation and utilization of space based upon records showing use of IRS facilities.

* * * * *

[FR Doc. 2015–02743 Filed 2–10–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Quarterly Publication of Individuals, Who Have Chosen To Expatriate, as Required by Section 6039G

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: This notice is provided in accordance with IRC section 6039G of the Health Insurance Portability and Accountability Act (HIPPA) of 1996, as amended. This listing contains the name of each individual losing United States citizenship (within the meaning of section 877(a) or 877A) with respect to whom the Secretary received information during the quarter ending December 31, 2014. For purposes of this listing, long-term residents, as defined in section 877(e)(2), are treated as if they were citizens of the United States who lost citizenship.

Last name	First name	Middle name/Initials
ABBASSY-EJIMADU	MONICA	BARBARA
ABEL	ANDREW	CRAIG
ACIERNO	MATTHEW	ROBERT
AL HAMIDI	BASIM	
ALLISON	MILES	CLIFFORD
ALLRED	TRENT	DREW
ALMONACID	MARIA	GABRIELA
AL-SABAH	LULUA	MUBARAK
ALZAMIL	ABDULLA	HAMAD
AL-ZAMIL	SAQAR	AHMED
AMBROSE	JONATHAN	WILLIAM
AMLAND	STANLEY	

Last name	First name	Middle name/Initials
ANDEREGG	RUBEN	ERNST
ANDRES	MELANIE	CARLOTA
ANG	CLARA	LING JIA
ANGEHRN	DAVID	GEORGE
ANGOLD	CARI	LYNN NEE TINDALE
ARBUCK	BARBARA	ZITA
ARCHER	AMELIA	STEPHANIE
ARIAS	MAKELIN	
ARNEODAU	RENE	PHILIPPE J.
ARNOLD	COLLEEN	MARIE
ARORA	RISHI	RAJ
ARTHO	OLIVIER	MARTIN
ASH	BENJAMIN	JEREMY
ATKINSON	GREGORY	ORLAND
AVEN	TERRY	LEE
AWKAL	DEBORAH	ANN LOUISE
BACHOFEN VON ECHT	CHRISTOPHER	JOHN
BACHTOLD	ALFRED	RICHARD
BAEK	JOSHUA	
BAENZIGER	JOAN	KOKOLETSOS
BAERG	BRIAN	LAVERNE
BAERG	LYNDON	COREY
BAGDASARIANZ	PHILIP	STEPHEN
BAILEY	DIANE	MARIE
BAKER	DIANE	ELIZABETH
BAKHSHI	ARUN	KUMAR
BAKSHI	NICOLE	YASMINE
BANCEL	SUZANNE	LOUISE
BANCROFT	ANTOINETTE	VICTORIA
BAO	BIFANG	
BARDEWYK	CATALINA	
BARFORD	HANS	PETER TANG
BARKHURST	NEAL	EUGENE
BARNETT	MILLIE	JO
BARRETT	COLIN	EDWARD FRANK
BARRETT	FRANK	ELWIN
BATES	YANA	MARJORIE
BELANGER	RICHARD	JOSEPH
BENEDICT	RAY	ANN
BENNAHMIAS	FRANCOIS-HENRI	
BERG	LARS	C.N.
BERKEL	MARY	JANE
BESTLAND	SARAH	MARIE
BETZ	PETER	WILLIAM
BEYNON	JUNE	DEBORAH
BIBBY	ANETA	MARIE
BIDDULPH	KEITH	ALEXANDER
BIDDULPH	NANCY	MATTEO
BIETENHADER	JEAN-LUC	
BIGHI	EDUARDO	
BILAND	FABIAN	
BILLER	SUZANNE	MARIE
BIRCH	CHRISTOPHER	PHILIP
BIRCH	ROBERTA	ANNE
BIRDSELL	DALE	CAMPBELL
BISCHOFF-JUBIN	ANNA	REJANE
BLANCKAERT	JESSICA	LYNNE
BLAQUIER	MARIA	MARTA TAQUINI
BLOMDAL	JUDITH	MARIE
BOBROWICZ	JOHN	D.
BODTKER	CHRISTOPHER	SEJERSTED
BOEGLI	NADIA	CLAUDINE
BOELS	ANNE	DOMINIQUE
BOEVE	MICHEL	PAUL
BOIVIN	ELIZABETH	
BOND	TRACY	ARTHUR
BONHAM	ELIZABETH	DUNCAN
BONNARD	LESLIE	ANNE
BONUGLI	RICHARD	JOHN
BONVIE	PHILIP	
BORBE	KNUT	HORST
BORSCHBERG	ELA	
BORSCHBERG	JASMINE	
BORSCHBERG	PETER	

Last name	First name	Middle name/Initials
BOSWELL	WILLIAM	JAMES
BOYD	MARVIN	ALAN
BOYLE	JOHN	JOSEPH
BRACKE	INGRID	
BRANCH	NATHAN	SCOTT
BRANCIER	NATASHA	DEVI JAGAN
BRANDES	JILL	LESLIE
BRANDESTINI	VESNA	CHRISTINA
BREADEN	EMILY	
BRENNER	AIMEI	ZHANG
BRIDGES	JAMES	THEODORE
BRITT	MARK	LESLIE
BROUGHALL	PETER	TEMPLIN
BROVIG	DEA	MONICA
BROWNE	ELIZABETH	JEANNE
BRUBACHER	ANNA	MARY
BRUN	CARINA	RUBI
BRYGIDYR	WILLA	ISABEL
BUDOVSKY	ARTHUR	
BUECHLER	NEIL	JOSEPH
BUESS	AIDA	LUZ
BUFFLE	SOPHIE	VIRGINIA
BUHLER	MARIA	
BURGAUER	ELINOR	ANN
BURGAUER	ERICA	MADELEINE
BUSH	JOYCE	ANNA
BUSSARD	DENNIS	JAMES
BUTLER	SALLY	ANN
CAHOON	CAROL	ANN
CAIRNS	WYNNE	ANNETTE
CALLENDER	SHERRILL	PEARSON
CAMERON-HAYES	YASMINE	EDITH
CAMPBELL	CHARLOTTE	S.
CAMPBELL	ERIKA	GOETZ
CAMPBELL	MARGARET	GREGORY PACSU
CAMPOS	ANTHONY	JOHN
CANNON	FORREST	WALLER
CAPOGNA	STELLA	LOUISE
CAREL	GENEVIEVE	EDMEE
CAREY	PETER	WRIGHT
CAREY	SUSAN	ELIZABETH PARR
CARON	DIANE	MARIE
CARR	LAURENT	ALAIN
CARRELL	MICHAEL	EDDIE
CARSON	ELIZABETH	ANN
CASE	MARY	LUELLA
CATES	STEPHEN	MICHAEL
CATLOW	HELEN	ANNE
CERQUONE	ANTHONY	
CHAFFART	LYNONA	ANN
CHAI	BIAO	
CHAN	DAVID	MOON HANG
CHAN	SHIRELY	SIU-YAN
CHANDRIS	NICKI	MYRTO
CHARLTON	LYNDA	JEAN
CHASE	JOHN	STANLEY
CHASE	MAUREEN	LOUISE
CHEN	DATONG	
CHEN	KEN	AN
CHEN	TIANREN	
CHEN	YUEZHEN	
CHENG	ARTHUR	WILLIAM
CHENG	CALVIN	K.
CHENG	KATHERINE	YANTRUE
CHERNAVSKA	ARIADNA	
CHEUNG	MABEL	
CHIN	PETRINA	SZE-HUEY
CHOE	UN	SUK
CHOI	ANN	HYUN
CHOI	CLARA	IN YOUNG
CHONG	MATTHEW	JING-MING
CHONG	NEHEMIAH	SONG YAN
CHOU	ROBERT	
CHOW	KIRSTY	HIU-CHING

Last name	First name	Middle name/Initials
CHOY	ORPHEUS	CHI FUNG
CHRENKO	RICHARD	MICHAEL
CHRIST	TORREY	RAND
CHUN	NANHEE	YANG
CHUNG	MIN	WING ALVIN
CLARK	BEATRICE	IDA
CLARK	EDWARD	EUGENE
CLARK	ILLYA	CELENA ARNET
CLARK	PATRICIA	GAIL
CLAY-CANN	MARY	KATHLEEN
CLEMENTS	KENNETH	MICHAEL
CLIMENHAGA	NATALIE	LEAH
COFFEY-LEWIS	GALINA	
COONEY	DENIS	JOSEPH
COOPER	MATTEO	
COOPER	ROBERT	WILLIAM
CORBETT	JEFFREY	SCOTT
CORONADO	STEPHANIE	ANNE
COTE	CHANTAL	CELINE SEPPI
COTTET	CLAUDINE	MICHELE
COULES	DENNIS	CHARLES
CRANCH	CAROLYN	MARIE
CRAWFORD	CHRISTOPHER	
CRAWFORD	WILLIAM	LEE
CRITES	DONNA	RUTH
CRITES	JAMES	TIMOTHY
CROSS	BARBARA	LYNNE
CUCKA	JOHN	MICHAEL
CULP	CAROLYN	ANNE
CUMMINGS	OLGA	ANN
CUNNINGHAM	MELODY	ANN
DALLOZ	CELINE	SOPHIE
DALQUEN	MICHAEL	JOHN
DANYLUK	CARMEN	JOY
DAS	JENNIFER	LEA NEE DAVIS
DAVIS	CAROLYN	BECK
DAVIS	JOHN	ANDREW
DAVIS	TIMOTHY	EDWARD
DAWSON	KEVIN	DAVID THOMPSON
DE LAMARTER	PATRICK	ALAN
DE LISLE	SUSAN	BETH
DE MANGELAERE	RODRICK	
DE MEUX	FREDERIC	MICHAEL DE LAAGE
DEALY	SANDRA	IRENE
DEANGELIS	HELLE	ANETTE WALLOE
DECLERCK	STEFAAN	ALEXANDER
DELBOS	ROBERT	FRANCIS
DEMCHICK	WILLIAM	STADTWALD
DEMERCHANT	TERRI-ANN	SMOOTZ
DEMETRIADES	ANNA	SEVASTI
DERKSEN	RHODA	MAY
DESMANGLES	GUY-ROBERT	
D'ESTERRE	ANTHONY	JAVIER
DEUSTCH	ADI	AHARON
DEVERS	JESSICA	TINA
DIBA	CATHY	
DIETZ	RYAN	CHRISTOPHER
DIMORA	PIA	
DOAK	JACQUELINE	CLAIRE
DOBING	SELINA	RACHELLE
DOKANIA	AMAN	NEIL
DONALDSON	THOMAS	FREDERICK
D'OPPUERS	JEAN-CHARLES	P W B SNOY ET
DOSSIN	SYLVIE	FRANCOISE
DOULIS	SALLY	
DREIER	VANESSA	ADELE TRUDY
DRENNAN	HENRY	VINCENT
DRENNAN	YOKO	PATRICIA
DRIFTMIER	DAVID	LLOYD
DUNBAR	STUART	GORDON
DUNHAM	FREDERIC	JACQUES
DUNNE	LUKE	ANTHONY
DURAN-CHABOT	CLAUDIA	ALEXANDRA
DUSHINSKI	JOHN	WILLIAM

Last name	First name	Middle name/Initials
DYCK	ROBERTA	SUSAN
EARLE	HEIDI	MAE
EARTHY	DARON	LINDA
ECHLIN	JOHANNA	
ECTOR	DONALD	LANE
EGLI	CAMILLA	
EICHELMANN	ANDREA	PETRA
EIFERT	JANET	JUDITH
EILER	ANNE	MARIE
EILERTSEN	KRISTEN	LORRAINE SMITH
EISENSTADT	BETTY	
ELLIS	MEAGHAN	ALENA
ELLISON	DEBORAH	ANN
ELSTON	CAROLINE	HENRIETTE
EMERSON	CLINTON	LOUIS
ENGLISH	JOE	DONALD
EPPS	MARIE	MARJORIE
ERB	HANS	ULRICH
ERVING	ROBERT	VICTOR
EVANS	VALERIE	GAYLE
EVANS	WILLIAM	NATHANIEL
EWING	WANINA	
EYHOLZER	CHRISTIAN	HEINRICH
FABRO	VIRGINIA	ELEANOR
FAIRCLOUGH	DIANA	
FALKENBERG	LORI	ELLEN
FALKENBERG-WALSH	LORA	
FANELLA	SERGIO	THOMAS
FANG	HUI	WEN
FANTONI	GEORGINA	HELEN DRUMMOND
FASANO	JORDANA	CHRISTINE
FELDMEYER	LYNN	JOYCE
FENTON	SCOTT	FRANCIS
FERGUSON	CANDIS	(NEE NAIM-BROWN)
FERNANDEZ	SANDRA	ATINUKE OLUFUNLOLA
FERRAN	ELENA	
FERRARA	CHRISTINE	LISA
FERRIS	EMILY	ARBUTUS
FETT	LAURA	EUGENIE JAEL
FIETZ	TARA	RHIANNON DAWN
FILLET	MARC	PAUL
FINN	JAMES	PAUL
FISCHER	BENJAMIN	WERNER
FISCHER	NICOLE	MICHELLE
FISHER	PETER	PAUL
FITZPATRICK	RUSSELL	TAYLOR
FLANAGAN	MAUREEN	
FLEMING	REBECCA	ANN
FLETCHER	EWAN	JAMES
FLOWERS	THOMAS	JAMES
FONTANA	COLETTE	ROSALIE
FORD	LENA	MINNIE
FOSTER	CHARLES	WILLIAM
FOSTER	ELLEN	ROGERS
FRANCKEN	ADRIAAN	JAN BAPTIST GABRIEL
FRANK III	ARTHUR	WILLIAM
FRANKEL	SUZIE	
FRENK	ETIENNE	PAUL
FRIEDLAND	ERIC	VICTOR
FRIEDLI	MICHAEL	BRIAN
FRIESEN	PAMELA	JEAN
FROSSARD	ANDREA	MARTINA
FROSTAD	RANDI	ADELEID
FUJISHIMA	JULIE	KEIKO
FUJISHIMA	MARY	YASUKO KITAGAWA
FUKASE	TOMOMI	ALICE
FUKUI	KEN	
FULFORD	RAYMOND	EARL
GABRIEL	SOLANGE	INES
GALES	JOY	MARDEN BARBARA
GASSMANN	URS	MARKUS
GEBHARDT	ANDREAS	ALFRED
GEIGER	CHRISTIAN	ALEXANDER
GERARD	LEIGH	ILSE

Last name	First name	Middle name/Initials
GERSMANN	FRANK	
GHANDOUR	HICHAM	OMAR
GIENGER	EUGENE	ANDREW
GILMOUR	BRIDGET	AILEEN
GILMOUR	IAN	JAMES
GILMOUR	MARY	AILEEN
GIRARD	PHYLLIS	DIANE
GISELBRECHT	STEPHAN	KARL
GODDARD	LINDA	NIXON
GOETZ	FRANCES	BARBARA
GONZALEZ	LOUISA	SOMERMEYER
GONZALEZ	MATHIAS	
GORE	ROBERT	EDGAR
GORTCHACOW	TATIANA	
GOYZUETA	LUIS	HUMBERTO
GRACE	CHRISTOPHER	
GRAETZEL	AIMIE-LYNN	
GRAETZEL	LILIANE	CAROLINE
GRAHAM-KOPP	LANCELOT	WILLIAM
GRANATO	DAVID	SAM
GRANDITS	JOSEF	JULIUS
GRAYKOWSKI	ELLEN	SUZANNE
GREAVES	JANE	BRENNAN
GREEN	NICOLE	KIMBERLY
GREENFIELD	CONCETTA	CARESTIA
GRZYWNA-GROBLEWSKA	EVA	MARIA
GUAN	HUIMEI	
GUIDA	LINDA	MARIE
GUILLAUME	CATHERINE	MARGUERITE
GUI-QIN	ZHANG	
GULER-CHANNAPRAGADA	LEELA	KIRAN
GURD	KATE	VAN DER GIESSEN
HADAR	RON	
HAGEL	BARBARA	ANN
HALADNER	SAMANTHA	LINDSAY
HALL	LARRY	E.
HALLER	GEORGE	
HAMBERG	BARRY	ALLAN
HAMMANN	HYE	OK SALLY
HANSEN	ARLENE	MARIE
HANSON	SOPHIE-CHARLOTTE	SUZANNE
HANVEY	MICHAEL	ROBERT
HARDIE	CRAIG	ALLEN
HARRIS	AARON	CALE
HARRIS	JOE	JARRELL
HARRIS	JONATHAN	HOWE
HARRIS	ROBERTA	DOURNEY
HARRIS	STEPHEN	WAYNE
HARROFF	MARGARET	ANN
HARTMAN	THOMAS	STEPHEN
HASLER	OLIVER	BERNARD
HAUSER	DOROTHY	ELIZABETH
HAVARD	ROBIN	ADELE
HAYES AMSTUTZ	CATHY	CAROL
HEAH	KIAN	HUAT ALVIN
HEAP	SUSAN	JENNIFER NEESTITT
HECKMAN	BERNARDINE	LEE
HEEB	FELIX	
HEFEL	CURTIS	ADRIAN WALTER
HEFEL	CYNTHIA	MARIE
HEFERMEHL	DIMITRI	MARK
HELLER	LYNNE	
HEMPHILL	RALPH	
HENDERSON	JULIANNE	MARIE
HENG	WILMA	LING XUE
HENRIQUEZ	CAROLINA	R.
HEPING	CHENG	
HERLAND	FREDERIKA	ANN
HERMAN	ILENE	L.
HERNANDEZ	RYAN	AARON
HERR	RICHARD	ALLEN
HILAL	FREDERIC	
HILDEBRAND	SHERRY	ANN
HINSHAW	DEENA	LYNN

Last name	First name	Middle name/Initials
HIRSCHBACH	STEVE	MARTIN
HO	ANGELA	
HO	SERENA	MAY YIN
HOCKIN	AMELIA	LEIGH
HOESSLY	GIAN-CHRISTOPHER	ANTON
HOFFMAN	LANE	FLORENCE
HOHL	MARCEL	WALTER
HOLDEREGGER	DENISE	ELISABETH
HOLLAND	PATRICK	FRANCIS
HOLLIN	LINDA	LOUISE
HOLLINGSWORTH	JASON	TROY
HOLMAN	TAMARA	LEE
HONEYMAN	CORY	HILL
HONG	MARIE	EIKO
HONG	YOUNGGI	
HOTTINGER	DOLORES	YVONNE MARIE
HOUGH	JOHN	DOUGLAS
HOUGH	KATHY	ANN
HOUGNON	NATALIE	ANN
HOUGNON	ROBERT	
HOWARD	LINDSAY	DIANE
HOWE	BARBARA	LOCKE
HOWES	LYNDA	MARIE
HOWSE	JOSEPH	CHARLES
HSIAO	YU	JING
HU	BING	YI
HUANG	BERTINA	
HUBER	MANUEL	CHRISTOPH
HUBER	MARKUS	DANIEL
HUESSER	MICHAEL	
HULTSLANDER	PAUL	ROWLAND
HUNTER	KIM	DIANA
HUTCHINGS	JULIA	
HYNES	CECELIA	HILDA
ICHIKAWA	ERI	
IGLESIAS DE SOUSA	PAULO	RUI
ILISEVIC	NIKOLINA	FUDURIC
IMAI	YOHEI	DAVID
INGALIS	KARYN	ELENA
INGLIS	LAURA	KATHRYN
IRIARTE	CESAR	AUGUSTO
ISBESTER	ANDREW	DAVID
ISHIDA	TOMONORI	
ISON	SCOTT	MARTIN
JACKSON	JOHN-PAUL	CHRISTOPHER
JAIN	SHAUNA	ASHOK NEE KOTECHA
JANES	PRISCILLA	
JANETT	KURT	JAKOB
JANZEN	CORRINE	CLARICE
JEKER	KARL	FRANCIS
JEONG	YIWON	
JEONG	YUNG	JU
JOHNSON	ANN	VAN CURAN
JONES	CAROL	JANICE
JONES	CURT	THOMAS
JULIHN	BRADFORD	BENGT
KAMAYANA	ODHITA	ALEXIS SANDIAWAN
KANEKO	DAINA	
KASPAR	ADRIAN	GILBERT
KASPAR VON HOCHENEGG	FRIEDRICH	HELMUND
KATZ	GREGORY	ALLEN TOMIYE
KAVLIE	HOGNE	
KAYSER	LUDWIG	GEORGE
KELLOGG PSAROFF	DIANE	
KEMBLE	MICHAEL	JOHN
KERN	ADELINE	GERTRUD
KIDD	MARGARET	PELL
KILISTOFF	SHARON	KAY
KIM	ANDREW	SEONGMIN
KIM	DONG	PYUNG EUGENE
KIM	ETHAN	JISANG
KIM	EUI	KON
KIM	GRACE	M.
KIM	HEENAM	STANLEY

Last name	First name	Middle name/Initials
KIM	MI	KYOUNG
KIM	NELSON	Y.
KIM	OK	KYONG
KIM	SANG	HI
KIM	SUNG	JUNG
KIM	SUNG	LIM
KIRCHNER	EDITH	ANN
KIRSTEIN	MARK	HENRY
KLASSEN	BRENT	DAVID
KLEIN	HANNAH	LEONA
KNUESEL	PATRICK	ROLF
KOEPP	HANS	EBERHARD
KOKKONIS	SONIA	
KOLLER	THOMAS	JOHN
KOLSHUS	HANS	HALVORSON
KONECKI	ANDREW	ANTHONY
KONECKI	ROSEMARY	
KONG	CHONG	
KONG	CHRISTOPHER	CHUNG HOA
KONG	HIN	ON
KONUNTAKIET	TAYA	
KOO	SOHEE	
KOO	SOYEUN	
KOOB	AARON	JOSEPH
KORDITSCH	ANNA	
KOTECHA	SUHAS	ASHOL
KRAEMER	JOHANNA	VIRGINIA
KRAENZLIN	EVELYNE	MAJA
KRANS	INES	GERLINDE
KRAUSE	STEPHANIE	ALEXANDRA
KREUTTER	BARBARA	ANNE
KRYZANOWSKI	JULIE	ANIELA
KUANG	MEI	RENG
KULCHISKY	GRACE	IRENE
KULCSAR	BRANDY	LATITIA
KULCSAR	KEELEY	PAIGE
KULYK	JEFFREY	MICHAEL
KUPFER	JANE	BARBARA
LABASSE	FABIENNE	ALBERTE
LAEDERMANN	CEDRIC	JAMES
LAGHZAOUI	SOUAD	AZIZAH
LAGUE	KENNETH	DENYS
LAM	MARCUS	SHENGKAI
LAMBROS	NIKI	
LAMELA	VIRGINIA	
LANDOLI	VICKY	LOUISE
LANZA	ROBERT	
LAPI	KATHERINE	MICHELLI
LAPOSSE	MARIO	ROBERTO
LARIBY	ALEXANDRA	BEATE
LARKIN	WILLIAM	MARK
LARKINS	BRENDAN	ALEXANDER DENT
LARNEY	PETER	
LARSON	KATRINA	NANCY
LARSON	TODD	MICHAEL
LAVANCHY	CYRIL	DANIEL
LEBER	VINCENT	DAVID
LEE	DANIEL	
LEE	DANIEL	
LEE	DAVID	CHING-WEI
LEE	DONNY	DOO HYUN
LEE	HONG-NEE	CONNIE
LEE	JAE	HUK
LEE	KYUNG	WON
LEE	MICHAEL	EONSANG
LEE	TAEHOHN	
LEFKOWICH	AYLA	NITZA
LEFKOWICH	DAVID	MICHAEL
LEFKOWICH	MAYA	ELISHA
LEGASSICKE	NANCY	LYNN
LEITCH	MAGAN	ELIZABETH
LEITER	JOSEF	CONSTANTIN
LENO	NATHAN	DAVID GARTH
LESSER	SUSAN	RAYMONDE

Last name	First name	Middle name/Initials
LETTNER	CAROLYN	ANNE
LEWITZKY	SHIRLEY	ANN
LI	JIM	JUN
LIAN-DAUDE-LAGRAVE	ANITA	MADELEINE
LIEM	SUSAN	SIOE TJING
LIH	YOUNGJUN	
LIMPENS	NOELLE	MICHELLE MARY VINCIANE
LINDENBERG	RUY	LASCHAN
LINDHOLM	KRISTI	LYNN
LIPCHAK	IAN	ANDREW
LISMONT	ELISABETH	ELSA
LISMONT	PIETER	RENE
LISMONT	YVETTE	ANNETTE GAGNIER
LIU	HAONAN	
LIU	HONG	
LIVINGSTON	YVONNE	FRIEDA
LO	CHRISTINE	SHIH-TZE
LOEWEN	GLADYS	ANNE
LOEWENTHAL	PAUL-JOHN.	
LOOSLI	TAMARA	RACHEL
LOPEZ	JIM	
LOSEE	RONALD	JONATHAN
LOUIS	SEVERINE	JACQUI
LOVELL	BERNARD	
LOW	GARY	STEVEN
LOW	WENDIE	haawkes
LOWDERMILK	DAVID	JAMES
LUCIA	DAWN	RENE
LUE	SUZANEI	LYNNE
LUKOFF	FREDERICK	LLOYD
LUNDE	KRISTIN	SCHEEL
LUSCHER	ERIC	WERNER
LUSCHER‘	MAYA	CHARLOTTE
LUV	ANTON	THE
LYON	MARTHA	ELIZABETH
MA	BRIAN	HING BONG
MA	DORIS	
MACDONALD	AMY	ELINBORG
MACKLIN	CHRISTOPHER	CHARLES
MACLEAN	ALEXANDER	KENNETH ZOIA
MACLEAN	SHANNON	CHRISTINE ZOIA
MACLEOD	DONALD	RICHARD
MACLEOD	HEATHER	JO
MAGNELLI	HENRY	MICHAEL
MAH	SHIRLING	GRACE
MAHMOOD	KHALID	
MAHMOOD	NAILA	WAHEED
MALEKI	AIYANA	JOY
MALLOCH	BARRIE	A.
MALLOCH	BARRIE	ALLENE
MANTHOS	SOPHIA	THETIS
MAR	STACEY	VELEDA
MARBOT	CHRISTIAN	
MARCAKIS	KOSTA	
MARCAKIS	PANAGIOTA	
MARCUS	SUSAN	CAROL
MARISCAL	CARMEN	MARIA
MARQUARD	PHILIPP	ALEXANDER
MARSHALL	VERONIEK	ELISABETH
MARTENS	MARY	HALL
MARTENS	RONALD	DEAN
MARX	DANIEL	JEAN PIERRE
MASON	KAREN	LINDA
MASON, III	JAMES	HOWARD
MATKIN	EILEEN	FAY
MATTELAER	SABINE	YVONNE MARIE
MAURY III	THOMAS	PETER
MAUTNER	IRA	NATHAN
MAXWELL	DANIEL	PAUL
MAXWELL	IRIS	EMILY NEE FITZROY
MAY	LILY	SUSAN
MAYERSON	MARK	ALAN
MAZUREK	WILLIAM	LYMAN
MC LAUGHLIN	MARION	CLAIRE

Last name	First name	Middle name/Initials
MCALLISTER	JOHN	EDMUND
MCBRIDE	JOANNA	GERTRUDE
MCCLOUD-BONDOC	LINDA-LOUISE	
MCCUAIG	CATHERINE	CAMERON
MCCULLOUGH	WILFRED	BRUCE
MCCUSKER	BERNADETTE	
MCDONELL	ROBERT	P.
MCGILVRAY	ROBERT	DOUGLAS
MCGOWN TANGERAAS	NANCY	
MCINNIS	JOYCE	C.
MCKAY	ANDREA	LYNN
MCKUSICK	ALICE	HOPE
MCLAFFERTY	DARLENE	ELAINE
MCLAFFERTY III	MARCUS	LAWRENCE
MCLEOD	JOHANNA	KATHLEEN
MCNAMEE	WILLIAM	J.
MCQUAY	SHELANN	JENAY
MEDLINGER	CHARLES	MICHAEL
MEEHAN	LINDA	KAE KUCHENBACH
MEEHAN III	SEAN	FRANCIS
MEIER	PATRICK	STEFAN
MEIER-ABT	FABIENNE	CHRISTINE
MERCER	BETH	ELLEN
MERCER	DAVID	GARTH
METAXAS	SPYRO	DIMITRIOS
MEUTZNER	MARGARET	HELEN
MICALI	LUCIANO	
MIKI	DAIKI	
MILAT	JENNIFER	ELAINE
MILES	SARAH	
MILLAR	ELLIE	TSAI
MILLER	ASHLEY	VICTORIA
MILLER	JESSE	REAY
MILLER	NANCY	KAY
MILLS	KENNETH	EDWARD
MILNE	WILLIAM	HERMAN
MINDT	STEFAN	PATRICK
MINIELLY	GEOFFREY	PEARSON
MIYAKI	ADRIANE	MELLO
MOLINE JR.	ALVIN	JOEL
MONAHAN	SARAH	KATHLEEN
MONTGOMERY	NATHANIEL	MARK
MORGENROTH	JACQUELINE	SIMONE
MORGENTHALER	MARK	CHRISTIAN
MORPHEW	GEOFFREY	THOMAS
MORRIS	DENNIS	
MORSE	MOLLY	
MOSER	ROLAND	P.
MOSKOWITZ	REBECCA	
MUEHLEMATTER	KATHRIN	PEGGY
MUELLER	COLLETTE	RENEE
MUKANTABANA	MATHILDE	
MULANI	AKASH	JACKY
MULDAL	CAROL	ANN
MULDER	VINCENT	ALLIAN
MULLER	ANNELISE	
MULLER	AUGUST	RUDOLPH
MULLER	GLENN	
MULLIGAN	JAMES	E.
MULLIGAN	JAMES	EDWARD
MULLIGAN	MARY	F.
MULLIGAN	MARY	FRANCES
MUNRO	KAREN	EDNA
MURPHY	THOMAS	GERALD BERNARD
MURRAY	THERESE	MARIE
MUSSELMAN (NEE:MELTON)	ZELDA	DEAN
MUTZENBERG	MARTIN	ALFRED
MUXO	EDUARD	JOSEPH
MYWATER	JAMES	MARTIN
NADIR	LAURIE	
NAGAOKA	MISA	HELEN
NEGISHI	AKIKO	
NEIMAN	JOSEPH	JAMES
NELSON	ALEXANDER	LEE

Last name	First name	Middle name/Initials
NELSON	KRISTIN	MARIE
NEUENSCHWANDER	MIRCO	
NEWMAN	BETH	MELANIE
NEWSON	RONALD	KENT
NG	MINNA	
NGUYEN	NHAT	PHONG YOSHINARI
NGUYEN	NHAT-TIEN	HISAZUMI
NICOLAI	RANDAL	PIETER
NIELSEN	ABIGAIL	
NIENHAUS GENNANT SUR	KIMBERLY	
NIETO	ANNE	
NIETO	JOHN	ANTONY
NILL	GEORGE	M.
NIXON	PATRICIA	LYNN
NO	DARVYN	DALE
NOBEN	ASHLEY	LOUISE
NOBLE	CATHERINE	ELIZABETH
NOBLE	DAVID	CRAIG
NORDBY	ARNE	PETER
NOTZELMAN	GREGORY	JOHN
NUERNBERGER-WALLE	MARLENA	JOY
NUGENT	KEELY	JEAN
NUSSBERGER	SUSANNE	EVE
ODONNELL JR	JOHN	
OHMAE	JEANNETTE	JOCELYN
OHMAE	SOHKI	
OLDFIELD	PETER	KING
OLDSTED	ANTHONY	ALLAN
OLFERT	LINDA	MARIE
OLIVER	JANET	MARIE
OPRAVIL	SIMONE	MARISA
ORCHARD	DAVID	MICHAEL
ORD	JARED	JONATHAN
ORHAUG	ULF	
OSWALD	GUIDO	A.
OTTERSTAD	ALF	BORGE
OWENS	JENNIFER	KATHLEEN
OZAWA	NORIHIKO	ANTHONY
PAGANI-BURT	ANNA	ELIESE
PAHL	ALISON	KATE WIGHT
PAHL	EZIAH	JACOB
PANKRATZ	MARILYN	AUDREY
PAPAGEORGIOU	SOTIRIOS	GEORGE
PARK	CHOUL	GOO
PARK	HAYNE	CHO
PARK	JULIA	
PARKER	BRENT	ALLEN
PARTRIDGE	DORIS	ELLI
PARTRIDGE	LISA	M.
PASCHE	VIVIANE	MATHILDE
PATEL	LATA	VISPI
PATHIPVANICH	ANUTE	
PATTON	JAMES	THOMAS
PAYNE	DUSTIN	DELBERT
PAYNE	JESSICA	JANE
PEIFER	WILLIAM	WAYNE
PENG	AUDREY	SHAW-CHUANG
PENTEGOV	ALEX	
PERALES	DAVID	
PERBOS	MARC	LUIGI
PEREZ GIANNOPOULOS	TAMA	SEQUOIA
PETRIE	SUSAN	M.
PETRUZZELLO	STEVEN	ROGER
PFAFFLI	CAECILIA	C.
PHARAMOND	ANTOINE	CHARLES
PHELPS	JASON	FRANCOIS
PHILLIPS	FRANCOISE	MARIE MONTAUD
PICCININ	MARY	MARGARET
PIND	ADRIENNE	VERONICA
PINERO	CHUNG	NIM
PIOVATY	KAREN	GALE
PITFIELD	WARD	CHIPMAN
PLOWDEN	AMANDA	NINA THERESE CHICHELE
PLUCKER	JOHN	MARNIN

Last name	First name	Middle name/Initials
PLUTH	FERN	ANN
POE	SPENCER	PATRICK
POLY-MOOREFIELD	CHRISTINA	ELIZABETH
POOLER	PRISCILLA	LORING
POPESCU	ANNELLIESSE	VALERIA
PORTER	BENSON	LEE
POWELL	KENNETH	JAMES
POWELL	WYLEY	LOVELACE
PRASSER	HELEN	
PRATT	RANDOLPH	MURRAY
PREFONTAINE	JULIE	LUCIE
PRESTEL	CORNELIA	DOLAN
PRICE	HEATHER	ANN
PRICE	JANET	LYNN
PROUD	ROBERT	JOHN
PURVIS	DANA	ELY
QIAN	QIAN	
QUADERER	ROGER	STUART
QUAIL	JOHN	WILSON
RA	DANIEL	YONGJAE
RACHALS	RICHARD	HUBBARD
RAE	JANICE	MARIE
RAE	MARY	CHRISTINE
RAGATZ	ANDREW	GALECKI
RAMBO	PETER	
RASMUSSEN	NILS	HENRY WILLIAMS
READ	CYNTHIA	YONKO
REIFSNYDER	ASTRID	ALIX MARIE
REMICK	RONALD	ALLAN
REVES	JOHN	ALEXANDER
REYES-MILFORD	STEFFIE	SHAY
RHODES	CAREY	ELIZABETH NEE GORDON
RICHTER	JANA	
RIEMENS	CHRISTIAAN	
RINCOVER	ARNOLD	
RIOUST DE LARGENTAYE	ARMAND	MARIE LOUIS
ROBERTS	GLEN	LEE
ROBERTSON	WILLIAM	DOUGLAS
ROBINSON	TAMI	MARIE
ROBISON	NATALIE	MARIE
RODRIGUEZ	EUGENIO	SERAFIN
RODRIGUEZ	PABLO	ANTHONY
RODRIGUEZ	VICTOR	
ROMANQUE	NICOLAS	JOSEPH
ROSE	NORMA	LYNNE
ROSE	PHILIP	MICHAEL
ROSENTHAL	ELISABETH	KRASNER
ROSS	SEAN	DAVID
ROSSAT	LOUISA	CLAIRE
ROSSI	PAOLA	ISABELLA
RUMBLE	STEPHEN	MATHEW
RUNGE	WENDY	
RUSSI	KEVIN	
RUSSO	GERARD	ALTON
RUTHLING	CARLETON	ROBERT
SABATUCCI	RANIERI	ROBERTO
SAMBROOK	HONOR	KATHLEEN
SANDERS	JULIANNE	
SANDOZ	IDA	EMMY JEANNE
SANDOZ-HEYSE	PATRICIA	ELLEN
SANDRI	JOHN	PAUL
SARGISON	VIRGINIA	LEE
SATTVA	PARZIVAL	
SAUSER	MELISSA	LYNNE
SAVARY	ESTELLE	FREDERIQUE
SAWATSKY	MARY	KATHLEEN
SCALLION	PATRICIA	LOUISE
SCHAAD	THOMAS	ANDRE
SCHAUFELBUHL	ANDRI	
SCHENCK	MARK	ANDREW
SCHENKER	CHRISTINE	BARBARA
SCHERZ	MICHAEL	WIARD
SCHICKER	MONIKA	MARIA
SCHIESS	JACQUES	PHILIPPE

Last name	First name	Middle name/Initials
SCHIESS	MARILYN	CARMEN
SCHMALZRIED	SUSANNE	
SCHMELZBACH	CEDRIC	
SCHMID	TANYA	ELIZABETH
SCHMIDT	BEVAN	HUGH
SCHMIDT	CARL	LYMAN
SCHMITT	ANDREW	FORBES
SCHMOCKER	CATHERINE	ROSEMARIE
SCHNEIDER	JOHANNA	
SCHNORF	KEVIN	GEORGE
SCHNORF	VIRGINIA	ANN KATHLEEN
SCHREIBER	ANDREA	CLAUDIA
SCHUDEL	MICHAEL	CHARLES
SCHWARTZ	BARBARA	ARLENE
SCHWYZER	BRIAN	KEITH
SCOLLAR	PETER	MAXIM
SCRIMGEOUR	ALEXANDER	
SEALS	CLAIRE	ELIZABETH
SEAVER	JEFFREY	CHARLES
SEILER	EVELINE	ERIKA
SELLEM	CHRISTINE	ORTMAN
SEMPOWSKI	IAN	PETER
SENDAGORTA	ELENA	
SEPETOSKI	MARYA	
SERVIZI	ERIC	JAMES
SETHI	SUJATA	
SHAO	ZU	XIONG
SHEN	ZUEHUA	
SHENG	PAO-HIS	
SHEPPARD	SCOTT	RICHARD
SHERIDAN	KAREN	GERALDINE
SHERLOCK	TRACY	ELLEN
SHIH	PAUL	I-CHENG
SHIM	RONALD	MYUNGSUP
SHIN	STEPHEN	HYUNSANG
SHUCKETT	NICOLE	
SHULTS	FOUNT	LE RON
SICK	ANDREW	GORDON
SIEDENBURG	JULES	RENALDO
SIEGENTHALER	FREDERIC	ANTOINE
SIME	KATHERINE	LOUISE
SIMES	DAVID	CHARD
SIMMEN	LEONARD	
SIMON	JONATHAN	DEAN
SIMONSEN	DAVID	
SIU	SALINA	S.
SIU	TOMMY	KWOK CHEUNG
SLY	CORINNE	CONNOR
SMART	CATHERINE	ELEANOR
SMESLAND	GRETHE	
SMITH	ERIC	WHEELER
SMITH	JANET	LYNN
SMITH	KIMBERLY	DIANNE
SMITH	MICHELE	LOUISE
SMITH	WILLIAM	FREDERICK
SMITH	WILLIAM	JOHN LEE
SMITH II	LAWRENCE	WEBB
SMYTH	JOYCE	EDITH
SNG	JOSEPH	JIN HUI
SNOWDON	DYLAN	ROSS
SNOWDON	MEGHAN	ANN ELLIS
SO	ALVIN	BRIAN
SOLOMON	BRUCE	TUNNOCK
SOLSTRAND	MARIA	VICTORIA
SONG	YEONSOO	
SOODSMA	RACHEL	MARGARET
SORG	ANDREW	PETER
SPENCE	HILDEGARD	JEAN
SPERA	ANDRE	WILLIAM
SPRING	PENNY	NOEL
STAGER	ANN	COLBY
STARK	DUDLEY	SCOTT
STASTNY	ROXANNE	BLAINE
STEBLER-HENGEL	BIRGIT	MARY

Last name	First name	Middle name/Initials
STEIGER	ROBERT	LAURENZ
STEINMETZ II	WILLIAM	RICHARD
STETTLER-LUGINBUHL	ELISABETH	
STEVENSON	YVONNE	JEAN NEE HALSEY
STEWART	STEVEN	CRAIG
STONE	TINA	BONNIE
STOREN	OSCAR	FINN FRIEDRICH
STRAEHLE	CAROLYN	ANDREA
STROESSNER-RODRIGUEZ	SOLANGE	MARIA
STROHMEIER LUDER	PATIENCE	CAROLINE
STUERCHLER-KAISER	ALEXANDRA	MELANIE
SUABEDISSEN	ERIKA	ERNA
SUABEDISSEN	MARK	HENDRIK
SUAREZ	LILIA	INES
SULC	MARY	BETH
SUTCLIFFE	SUZANNE	KATHLEEN
SUTTON	SUSAN	LEIGH
SWAN	LAURA	CHRISTINE
SWANSON	HOWARD	ALLEN
SYRATCHEV	JENNIFER	JEAN
SZPIRGLAS	GINA	
TAKAYANAGI	KEITA	
TANG	JAMES	YIU CHI
TANSEY	SHARON	ANN
TAPPERT	FRANCES	LEE
TARKOWSKI	RICHARD	BONAVENTURE
TARR	NATALIE	ALEXANDRA
TAYLOR	JASON	WAYNE
TAYLOR	LORRAINE	YVONNE
TAYLOR	PAUL	ALLAN
TEO	PETER	
TERPENNNING	GREG	ELDON
TERRIER-LUSCHER	BRIGITTE	MAYA
THEMIG	ERIC	JON
THEMISTOCLEOUS	MADELEINE	
THERRIEN	KATHRYN	MARY
THNG	COEWAY	BOULDER
THOMAS	ANNA	YUEN WA
THOMAS	BARBARA	
THONG	RAYMONG	
THROCKMORTON	MARK	AUSTIN
TIMOTHY	JUNIOR	JACKIE TOMA
TOMCIK	MELISSANDE	
TOUZELET	CHRISTOPHE	YVES
TOUZELET	DANA	DAHL
TRAVIS	JOHN	BROWN
TREILLE	MURIEL	LOUISE VERENA
TRIDON	JEAN-GABRIEL	
TROGER	SYLVIANE	MATHILDE
TSENG	SHU	WEN
TURNER	REJANE	CORRINE
UPSHUR	JESSE	DAVID
URBAN	DAVID	EDWARD
URYU	TAKUMA	
USSHER	ELLEN	DORIS
VAN DER WIND	ANNE ROSE	
VAN VLIET	MAURY	GADDIS
VAN WULFFTEN PALTHE	YVONNE	MARIJKE HOLS
VAN YPERSELE DE STRIHOU	VINCIANE	
VANCE	FIONA	NATALIE
VARETTO	ALEXANDER	
VAUTIER	ELAINE	
VEITH	HOLGER	WERNER
VEKRIS	DIMITRI	JAMES
VELOSA	MARIE	HELENE
VERBEEK	MARY	MAJKEN
VERNIE-EKBERG	ROSALINDE	COTY
VERSACE	HELGA	
VERSTRAETE	ANNELI	MARY-GAY
VILLANUEVA	MEGAN	
VIOLA	LUCIEN	
VOITCHOVSKY	NATHALIE	CATHERINE
VON FELLENBERG	CARINE	SIMONE
VON HIPPEL	STEPHANIE	HERMINE HELEN

Last name	First name	Middle name/Initials
VONMOOS	PAULINE	MARGUERITE
VOS JR	EDWARD	ALFRED
WAGNER(ZARNIKAU)	MARY	JEAN
WALKER	DOUGLAS	MACARTHUR
WALLS	KEITH	GORDON
WALSH	SHELAGH	TABER
WANG	BINGLIAN	
WANG	JANICE	S.Y.
WANG	JI	XIN
WANG	PO	SHEN
WARD	LAWRENCE	HERBERT
WARSHOW	KEITH	IAN
WASSERMAN	MORDECHAI	
WAUGH	PHYLLIS	ELIZABETH
WEARMOUTH	CARLA	LORETTA
WEARMOUTH	SCOTT	ANDREW
WEBER	BARBARA	SUSAN
WECKER	LAKIN	CHRISTOPHER
WEE	ANN	HONGHUI
WEHREN-PERRET	SIMONE	THERESE
WEIBEL	LEONARD	JASON
WEIBLE	KENNETH	JAY
WEIGHELL	ELIZABETH	SUSAN
WEINSTEIN	JULIE	LYNNE
WEISER	ANN	LIGGETT
WEISS	ILAN	DAVID
WELSH	THOMAS	EDWARD
WENDOLOSKI	JOHN	CHESTER
WHEATLEY	MARIA	
WHITE-JOUBERT	HEATHER	
WHITFIELD	ERIC	D.
WHITFIELD	MICHELLE	RENEE
WHITMORE	KENNETH	MATTHEW
WIDMAN	DAVID	STEPHEN
WIDMER	MARIANNE	
WIEBE	LINDSEY	ABRA
WIKSTROM	MARY	PENNEBAKER
WILLETTE	CHRISTINE	DOROTHY
WILLIAMS	ROYCE	DANIEL
WILLIAMS	SIOBHAN	KIRSTEN CAMPBELL
WILLIAMS	SUSAN	CLAIRE
WILLS	DONALD	VERNON WALDRON
WILSGARD	JACK	RICHARD
WILSGARD	JANIS	ANN
WILSGARD	JON	ROLF
WILSON	MORA	
WINTERHALTER	CECILIA	MARIE FRANCESCA
WINZ	INGRID	VERNA
WITAYANGKURN	GEORGE	
WOATICH	MICHAEL	
WONG	AARON	ELTON
WONG	ADRIANNA	LEANNE KOK CHI
WONG	DAMON	D.
WONG	KONG-KAT	
WONG	KWOK	SING
WONG	MABEL	KATHERINE
WONG	WESLEY	WAI KIT JOHN
WOOD	ASHLEY	ELLEN
WU	GRACE	Y.
WU	LIXIN	
WUNDERLI	MATTHIAS	DOUGLAS
WUNDERLI	MICHAEL	THORSTEN
XIAO	HONGTAO	
XU	RUIMING	
YADIGAROGLU	GEORGE	
YAMADA	YOHEI	
YAN	YU	
YEON	YEONG	JU SHIN
YEUNG	MELVIN	TSE SHING
YEUNG	TOI	SHAN DIANE
YORSTON	KRISTEN	BETH
YOUNG-DEWITTE	KIMBERLY	
YU LARSSON	BARBARA	PEI-LAN
YULE-TSINGAS	SALLI	KATHRYN

Last name	First name	Middle name/Initials
YUN	HEE	SUN
YUNG	CLAUDIA	NATALIE
YURIST	EUGENE	LOUIS
ZAPATA	MARCO	
ZHANG	NAIGUANG	
ZIEGLER	JESSICA	SADAR
ZIGLAR	STEVEN	ERSKINE
ZIMMERMAN	STEPHAN	THOMAS
ZIMMERMAN	SUSAN	MICHELLE
ZINKLAND-SELLES	LAURIE	PRISCILLA
ZOELLIN	JOHN	REINHARD
ZUGARO	FRANCESCO	LORENZO GALLI
ZWEIG	ILAN	MICHA
ZYSSET	STEFAN	MICHAEL

Dated: January 15, 2015.

Frances Fay,

Manager Team 103, Examinations Operations—Philadelphia Compliance Services.

[FR Doc. 2015-02850 Filed 2-10-15; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0621]

Agency Information Collection (National Practioner Data Bank (NPDB) Regulations) Activities: Under OMB Review

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Health Administration (VHA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and includes the actual data collection instrument.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before March 13, 2015.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov,* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0621 (National Practioner Data Bank (NPDB) Regulations)'' in any correspondence. During the comment period, comments may be viewed online through the FDMS.

FOR FURTHER INFORMATION CONTACT: Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–7492 or email *crystal.rennie@va.gov.* Please refer to ''OMB Control No. 2900–0621(National Practioner Data Bank (NPDB) Regulations)'' in any correspondence.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA'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 respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: National Practioner Data Bank (NPDB) Regulations.

OMB Control Number: 2900–0621.

Type of Review: Revision of an approved collection.

Abstract: Under the provisions of the Health Care Quality Improvement Act of 1986, which established the National Practitioner Data Bank (NPDB), and a Memorandum of Understanding (MOU) between the Department of Veterans Affairs (VA) and the Department of Health and Human Services (HHS), VA medical treatment facilities are required to query the NPDB at the time of initial appointment for all licensed, registered, and certified health care professionals which is followed with the enrollment in the NPDB Continuous Query (CQ) process with annual renewal of all licensed independent practitioners appointed to a VA medical treatment facility. In accordance with 38 CFR, Chapter 1, Part 46, information is collected so that VA can consider if malpractice payments were made related to substandard care, professional incompetence, or professional misconduct on the part of a licensed health care practitioner or if any adjudicated adverse action was taken against the licensure or clinical privileges of a these health care practitioner.

Additionally, complete and thorough credentialing is required to assure that only qualified healthcare professionals provide care to our Nation's veterans. The term credentialing refers to the systematic process of screening and evaluating qualifications and other credentials, including licensure, required education, relevant training and experience, current competence and health status.

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. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 79 FR 70616, on November 26, 2015.

Affected Public: Individuals or Households.

Estimated Annual Burden: 2,500 burden hours.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: Annually.

Estimated Number of Respondents: 500.

Dated: February 6, 2015.

By direction of the Secretary.

Crystal Rennie,

VA Clearance Officer, Department of Veterans Affairs.

[FR Doc. 2015–02827 Filed 2–10–15; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0701]

Agency Information Collection (VA Form 10–21081 Bereaved Family Member Satisfaction Survey) Activities: Under OMB Review

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Health Administration (VHA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and includes the actual data collection instrument.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before March 13, 2015.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov,* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0701 (Bereaved Family Member Satisfaction Survey)'' in any correspondence. During the comment period, comments may be viewed online through the FDMS.

FOR FURTHER INFORMATION CONTACT: Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–7492 or email *crystal.rennie@va.gov.* Please refer to ''OMB Control No. 2900–0701(Bereaved Family Member Satisfaction Survey)'' in any correspondence.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA'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 respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Bereaved Family Member Satisfaction Survey.

OMB Control Number: 2900–0701.

Type of Review: Revision of an approved collection.

Abstract: The death rate for Veterans will continue to grow as the number of Veterans 85 years of age and older is projected to increase by 32 percent between 2009 and 2018. Given this trend, the VA will face substantial challenges in providing care to Veterans near the end of life. For example, extensive data from non-VA health care systems demonstrates that physical symptoms like pain, dyspnea and nausea are common in advanced illness, but are under-recognized and inadequately managed. Other studies have found that providers often lack the time and communication skills to discuss goals of care and treatment preferences with patients and families; there is strong evidence that when providers fail to discuss goals of care with patients and families, patients often receive unwanted, aggressive life-sustaining treatment that is not consistent with their preferences. A related problem has been the high incidence of deaths in an acute care setting. As many Veterans approaching end of life may prefer a more quiet and comfortable setting than can be provided in acute care, with improved communications and availability of services much of this end of life care could be shifted to a VA hospice unit or to hospice in the Veteran's home. The VA has been and continues to be a leader among healthcare systems in the provision of hospice and palliative care. National VA initiatives have been implemented and continue to support the development and expertise of palliative care consult teams.

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. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 79 FR 70282, on November 25, 2014.

Affected Public: Individuals or Households.

Estimated Annual Burden: 1,833 burden hours.

Estimated Average Burden per Respondent: 10 minutes.

Frequency of Response: Annually.

Estimated Number of Respondents: 11,000.

Dated: February 6, 2015.

By direction of the Secretary.

Crystal Rennie,

VA Clearance Officer, Department of Veterans Affairs.

[FR Doc. 2015–02828 Filed 2–10–15; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0128]

Proposed Information Collection (Notice of Lapse—Government Life Insurance); Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to this notice. This notice solicits comments on information needed to determine claimants' eligibility to reinstate lapsed Government Life Insurance policy.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before April 13, 2015.

ADDRESSES: Submit written comments on the collection of information through

Federal Docket Management System (FDMS) at *www.Regulations.gov;* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0128'' in any correspondence. During the comment period, comments may be viewed online through FDMS at *www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 632–8924 or FAX (202) 632–8925.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA'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 respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Titles:

a. Notice of Lapse—Government Life Insurance, VA Form 29–389.

b. Application for Reinstatement, VA Form 29–389–1.

OMB Control Number: 2900–0128.

Type of Review: Revision of a currently approved collection.

Abstract: VA Forms 29–389 and 29–389–1 are used to inform claimants that their government life insurance has lapsed or will lapse due to non payment of premiums. The claimant must complete the application to reinstate the insurance and to elect to pay the past due premiums. VA uses the data collected to determine the claimant's eligibility for reinstatement of such insurance.

Affected Public: Individuals or Households.

Estimated Annual Burden:

a. VA Form 29–389—3,399 hours.

b. VA Form 29–389–1—1,060 hours.

Estimated Average Burden per Respondent:

a. VA Form 29–389—12 minutes.

b. VA Form 29–389–1—10 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents:

a. VA Form 29–389—16,993.

b. VA Form 29–389–1—6,359.

Dated: February 6, 2015.

By direction of the Secretary.

Crystal Rennie,

Department Clearance Officer, Department of Veterans Affairs.

[FR Doc. 2015–02818 Filed 2–10–15; 8:45 am]

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Part II

Department of Health and Human Services

Administration on Aging

45 CFR Parts 1321 and 1327

State Long-Term Care Ombudsman Programs; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Aging

45 CFR Parts 1321 and 1327

RIN 0985–AA08

State Long-Term Care Ombudsman Programs

AGENCY: Administration on Aging, Administration for Community Living, HHS.

ACTION: Final rule.

SUMMARY: The Administration on Aging (AoA) of the Administration for Community Living (ACL) within the Department of Health and Human Services (HHS) is issuing this final rule in order to implement provisions of the Older Americans Act (the Act) regarding States' Long-Term Care Ombudsman programs (Ombudsman programs). Since its creation in the 1970s, the functions of the Nursing Home Ombudsman program (later, changed to Long-Term Care Ombudsman program) have been delineated in the Act; however, regulations have not been promulgated specifically focused on States' implementation of this program. In the absence of regulation, there has been significant variation in the interpretation and implementation of these provisions among States. HHS expects that a number of States may need to update their statutes, regulations, policies, procedures and/or practices in order to operate the Ombudsman program consistent with Federal law and this final rule.

DATES: *Effective date:* These regulations are effective on July 1, 2016.

FOR FURTHER INFORMATION CONTACT: Becky Kurtz, Director, Office of Long-Term Care Ombudsman Programs, Administration for Community Living, Administration on Aging, Atlanta Federal Center, 61 Forsyth Street SW., Suite 5M69, Atlanta, Georgia 30303–8909, 404–562–7592.

SUPPLEMENTARY INFORMATION: This final rule responds to public comments on the proposed rule published in the June 18, 2013, **Federal Register** (78 FR 36449) related to the State Long-Term Care Ombudsman Program.

Consistent with AoA's proposal in the proposed rule, the effective date of the final rule is July 1, 2016. AoA intends to provide technical assistance and training to States during this time and to allow States appropriate time to make any changes to their laws, regulations, policies, procedures, or practices that may be necessary in order to comply with this final rule.

AoA anticipates little or no financial impact on the State agencies or other agencies carrying out the Ombudsman program, the consumers served by the Ombudsman program, or long-term care facilities through implementation of this rule.

AoA believes that consumers (particularly residents of long-term care facilities) and long-term care providers will benefit from the implementation of this rule. Consumers and other complainants across the country will receive services from Ombudsman programs with more consistent quality and efficiency of service delivery.

States, Ombudsmen, agencies hosting local Ombudsman entities, and representatives of Offices of State Long-Term Care Ombudsmen will also benefit from the implementation of this rule in the establishment and operation of the Ombudsman program at the State and local levels. For years, States, Ombudsmen, and representatives of the Offices of State Long-Term Care Ombudsmen have reported to AoA that they have found some provisions of the Act confusing to implement. This rule seeks to provide the clarity that Ombudsman program stakeholders have requested.

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I. Background

State Long-Term Care Ombudsman programs (Ombudsman programs) serve as advocates for residents of nursing homes, board and care homes, assisted living and similar adult care facilities. They work to resolve problems of individual residents and to bring about improvements to residents' care and quality of life at the local, state and national levels.

Begun in 1972 as a demonstration program, Ombudsman programs today exist in all States, the District of Columbia, Puerto Rico and Guam, under the authorization of, and appropriations to implement, the Older Americans Act (the Act). These States and territories have an Office of the State Long-Term Care Ombudsman (the Office), headed by a full-time State Long-Term Care Ombudsman (the Ombudsman).

This regulation is promulgated under the authority of sections 201(e), 307(a), and 712–713 of the Older Americans Act (OAA, or the Act) (42 U.S.C. 3011(e), 3027, and 3058g–3058h, respectively). These provisions authorize the Assistant Secretary for Aging to prescribe regulations regarding coordination of elder justice activities, the development of State plans on aging, and Ombudsman programs.

In its 1992 OAA reauthorization, Congress created Title VII—Allotments for Vulnerable Elder Rights Protection Activities, and incorporated the provisions related to the activities of Ombudsman programs into Title VII. Previously some of these provisions had been within Title III. Therefore, the rule governing Title III of the Act (*i.e.* 45 CFR part 1321) and last updated in 1988, includes minimal provisions which relate to the Ombudsman program. Congress made its most recent reauthorization of the Older Americans Act in 2006. The changes in this final rule update 45 CFR part 1321—as well as the new part 1327—to reflect the 2006 reauthorization of the Act.

There has been significant variation in the interpretation and implementation of the provisions of the Act related to the Ombudsman program among States. This has resulted in residents of long-term care facilities receiving inconsistent services from Ombudsman programs in some States compared to other States.

Ombudsman programs were designed by Congress to have several features which are uncharacteristic of other programs and services created by and funded under the Act. Among those features are independence (a characteristic of any type of ombudsman program, not only the Long-Term Care

Ombudsman Program), unusually stringent disclosure restrictions, a public policy advocacy function, and the Ombudsman responsibility to designate staff and volunteers to serve as representatives of the Office even if they do not report to the Ombudsman for personnel management purposes. These distinct features have been implemented with substantial variation across states, including variations which are inconsistent with the provisions of the Act. This rule is designed to address those variations which AoA has determined are inconsistent with the provisions of the Act.

II. Analysis of and Responses to Public Comments

The Administration on Aging/Administration for Community Living (AoA) received 85 unduplicated comments during the public comment period from State agencies, advocacy groups, long-term care providers and associations, State Long-Term Care Ombudsmen, local Ombudsman entities, representatives of Offices, Ombudsman program-related associations, and the general public. Brief summaries of each proposed provision, a summary of public comments we received, and our responses to the comments follow.

The following summarizes comments about the rule, in general, or regarding issues not contained in specific provisions:

Comments: A significant proportion of comments indicated general support for publication of a final rule and for the overall content of the proposed rule. The comments in support made one or more of the following points:

1. Need for rule—Numerous commenters indicated appreciation for AoA's efforts in proposing the rule, indicating that a finalized rule would fill a gap that has existed for many years. Some described the proposed rule as a long-awaited and critically-needed milestone in the development of Ombudsman program services to individuals living in long-term care facilities.

2. Benefits to residents—Several commenters indicated support for the proposed rule's emphasis on the central role of the resident in directing program action. Some indicated that, when finalized, the rule would enable people with disabilities and older adults the ability to better understand and utilize Ombudsman program services. Some indicated that the rule is likely to result in benefits for individuals needing long-term services and supports, contribute to quality of care and life for long-term care residents, and/or more effectively implement consumer protections.

3. Program quality—Numerous commenters indicated that the rule, as proposed, would likely result in improved Ombudsman program efficiency, stability, and/or effectiveness. Some indicated that a final rule would provide consistent policy on Ombudsman program responsibilities. One commenter indicated that the proposed rule provides service consistency while addressing diversity among States in Ombudsman program organizational placement.

4. Needed clarifications—Several commenters described the proposed rule as a much needed clarification and amplification of the Act. Some commenters indicated appreciation for the proposed rule's clear indication that the Ombudsman program work is that of an advocate for residents. Some commenters found helpful the description of the respective roles of the State unit on aging and the Ombudsman, anticipating that the final rule will be helpful in guiding these relationships. Some commenters indicated that clarifications in the proposed rule would be helpful to long-term care providers to better understand the Ombudsman program and its services. One commenter indicated appreciation for several clarifications, indicating that State agencies, Ombudsmen and representatives of the Office have reported finding some OAA provisions confusing to implement, resulting in inconsistent services to residents and preventing some residents from having their rights protected.

5. Assistance to States—Some commenters indicated that the final rule will assist States as they seek to comply with the OAA in implementing a program with a complex and unique character.

Response: AoA appreciates that a significant proportion of commenters expressed support for promulgation of the rule.

While no commenter indicated objection to promulgation of the rule, several comments expressed general concerns which were not limited to a specific provision of the proposed rule:

Comment: One commenter indicated that the proposed rule would grant additional powers and authority to the Ombudsman without appropriate accountability. The commenter indicated concern that the experience, input and recommendations of local Ombudsman entities are not adequately recognized in the proposed rule. The commenter states that these changes could lessen the effectiveness of local Ombudsman entities and harm residents.

Response: AoA is implementing a rule that reflects and is consistent with the intent of Congress as set forth in the OAA with respect to the role of the Ombudsman, who is the head of the Ombudsman program, and who is accountable for the overall Ombudsman program operations, determinations, and positions. The Act indicates that other individuals who are providing Ombudsman program services—whether they are directly supervised by the Ombudsman or work in an agency hosting a local Ombudsman entity—act in the capacity of representatives of the Office.

This rule does not grant significant additional authority to, nor require additional functions of, the Ombudsman, but rather clarifies the responsibilities already set forth in the Act. Further, AoA holds States accountable, as its grantees, to assure operation of the State's Ombudsman program in accordance with the OAA, including assuring that a qualified and experienced Ombudsman is in place.

AoA appreciates the experience and expertise of the thousands of committed staff and volunteers who serve residents as representatives of the Office. In every State, the Ombudsman is far more effective and knowledgeable if s/he regularly seeks and values the input of the representatives of the Office. We have reviewed the rule in light of this consideration and have included references to the representatives of the Office and/or local Ombudsman entities to emphasize the importance of their involvement at § 1327.11(e) (regarding development of Ombudsman program policies and procedures) and at § 1327.15(g) (regarding inclusion of goals and objectives of local Ombudsman entities into area plans on aging, where applicable).

Comment: One commenter indicated that the final rule should better accommodate Ombudsman programs organizationally located in State agencies that are separate from the State unit on aging.

Response: While the majority of State Long-Term Care Ombudsmen are employed by State units on aging, and several are organizationally located in non-profit organizations under contract with the State unit on aging, there are a few States that have chosen to house the Ombudsman within another State agency. We believe that the vast majority of the provisions in the proposed rule apply to all of these organizational placements.

However, we have reviewed the proposed rule in light of this comment.

We acknowledge that the proposed rule did not adequately provide for instances where the Ombudsman has the legal authority to independently promulgate policies and procedures. We have provided for this circumstance in the final rule by moving the provision related to the establishment of Ombudsman program policies to § 1327.11(e) (regarding Ombudsman program establishment), instead of § 1327.15 (regarding State agency responsibilities), to better provide for the variety of State authorities and structures related to Ombudsman program policy and procedures development. We have also included language in the new provision at § 1327.11(e) to more accurately reflect the circumstances where the Ombudsman has the legal authority to establish program policies. Further, throughout the final rule, we have accounted for this variation in State organizational structure and authority.

Comment: Numerous commenters indicated that the final rule should provide guidance related to ombudsman services for individuals who live in other settings. Some indicated that the ombudsman service should be expanded to these other settings. One indicated the need for a uniform system to monitor long-term services and supports, regardless of location. Others indicated the rule should address guidance regarding best practices and coordination with expanded services. Settings indicated in these comments included home and community-based services, in-home services, hospice, and PACE (Program for All-Inclusive Care for the Elderly).

Response: The OAA provides authority for the Ombudsman program to serve residents living in ''long-term care facilities'' as defined at Section 102(35) of the Act (*i.e.* nursing facilities, board and care homes, assisted living, and similar adult care facilities). Congress has not authorized or funded Ombudsman program services to individuals receiving long-term supports and services in in-home settings or in non-residential settings such as adult day health centers.

States which choose to expand the Ombudsman program to serve individuals in settings beyond those provided for in the OAA are not prohibited from doing so. In fact, thirteen States and the District of Columbia currently provide State-level authority and/or resources to support expansion of the Ombudsman program to serve individuals living in non-facility settings. In addition, some States have provided expanded Ombudsman program services to individuals served through Federally-created demonstration projects, such as the Money Follows the Person project and the Financial Alignment Initiative (a project serving individuals dually-eligible for Medicare and Medicaid). AoA has no objection to those States which choose to utilize resources other than those appropriated through the OAA to expand ombudsman services to individuals living in a variety of settings or receiving a variety of long-term services and supports. However, absent Congressional authorization for the Ombudsman program to expand its services to new settings, AoA does not believe that it has the authority to provide for such an expansion of services through this rule.

As further clarification, Ombudsman programs, within the authority of the Act, already serve some individuals who live in long-term care facilities and receive some of the services indicated by commenters. For example, home and community based services (HCBS) services may be provided (depending on States' Medicaid waivers or other HCBS programs) in board and care or assisted living settings; and hospice services are available within many long-term care facilities. Home-health services may be available to supplement care in assisted living settings, depending on State policies. For individuals receiving these services while residing within long-term care facilities, Ombudsman program services are already available and authorized by the Act.

Comment: Several commenters recommended that the rule should require that the Ombudsman program be completely separate and independent from State government.

Response: Requiring all States to place the Ombudsman program outside of State government would be inconsistent with the provisions of the OAA. The OAA establishes the Ombudsman program through grants to State units on aging and specifically provides the option for the State agency to determine where the program should be organizationally located. While providing some limitations (such as conflicts of interest), the Act indicates that ''the State agency may establish and operate the Office, directly, or by contract or other arrangements with any public agency or nonprofit private organization.'' Section 712(a)(4) of the Act.

Some States have effective Ombudsman programs which are organizationally located, in whole or in part, inside of the State agency. In these States, the Ombudsman program is able to fully carry out the provisions of the OAA, even when the policies of the Office differ from the general policies in place for State employees. Examples of such practices are stringent disclosure limitations, making independent recommendations to legislators and other policymakers, and having direct access to the media to discuss long-term care policy matters. We realize that some States have had difficulty in carrying out all of the Ombudsman program provisions in the OAA. It is our intention that this rule will help those States have a better understanding of the OAA requirements and come into full compliance with the law. Where they are unable or unwilling to accommodate the provisions of the OAA which are necessary to provide for an effective Ombudsman program, State agencies will need to examine whether they are able to successfully operate the Ombudsman program directly or pursue an alternative course.

Comment: One commenter indicated that AoA is wise to build into the process time to allow networks to make appropriate changes and construct effective remedies where conflicts exist.

Response: AoA realizes that some States have implemented laws, regulations, policies, organizational structures, or other actions which are inconsistent with this rule. In the absence of regulation, States have by necessity moved forward with operating the Ombudsman program, resulting in significant inconsistencies among States. While accommodating a variety of organizational placements and approaches to Ombudsman program operations, we have focused, in this rule, on those areas which we believe are critical to full implementation of the OAA. In order to accommodate those States which will have to make changes to their laws or regulations, this rule becomes effective on July 1, 2016.

This date provides most States with the benefit of two legislative sessions in order to make any needed changes. States with biennial legislative sessions will have an opportunity to make legislative changes to implement the rule whether the State has a legislative session in 2015 or in 2016. In addition, since most States begin their fiscal years on July 1, we believe that this date will provide a logical and convenient time frame for those States to implement legislative or regulatory changes. ACL notes that many States will not require legislative changes in order to comply with this rule.

Comment: One commenter indicated concern about provisions that may necessitate State legislative action. Another commenter recommended that the period of one year for implementation be extended to provide

States and local Ombudsman entities with adequate time to remedy conflicts.

Response: For the reasons indicated above, ACL has changed the effective date of this rule to July 1, 2016.

Comment: One commenter indicated that strict implementation of the rule could jeopardize State funding, which is used to supplement the Ombudsman program, impacting the Ombudsman program, facilities, residents, and the ability of the State to expand its program into in-home settings.

Response: AoA appreciates that a number of States provide additional resources in order to supplement the Ombudsman program. As a result of these States' commitment to this work, residents have improved access to Ombudsman program services. It is our intent that States will continue their commitment to serve long-term care facility residents regardless of the promulgation of this rule. We do not foresee how compliance with this rule would jeopardize any State's ability to support the work of the Ombudsman program.

Comment: One commenter indicated that the proposed rule does not go far enough in addressing critical problems that Ombudsman programs face.

Response: In promulgating this rule, AoA has attempted to address the issues that would most significantly benefit from regulatory clarity and authority. These issues were identified based on our experience with State operations of Ombudsman programs as well as recommendations of evaluators and stakeholders. We also considered the variety of State approaches to implementing the Ombudsman program, with a goal of minimizing disruption to Ombudsman program operations while adhering to the requirements of the OAA. We are not clear from the comment to which ''critical problems'' the commenter refers. However, we anticipate that responses to more specific comments, below, may respond more fully to the comment.

Comment: One commenter indicated a desire for increased accessibility to more low-income persons and people with disabilities who have a hard time accessing Ombudsman program services. The commenter indicated support for re-evaluation of the poverty threshold.

Response: The services of Ombudsman programs are available to all residents of long-term care facility residents, without regard to financial status or payment source. The OAA requires that the Ombudsman ''ensure that the residents have regular and timely access to the services provided'' (Section 712(a)(3)(D) of the Act). In most States, access is provided to residents through regular visits to facilities by representatives of the Office—as well as through telephone, email, facsimile, Web site contacts, TTY (text telephone) and other communication services, and mail—so residents do not need to visit a physical office location to have access to Ombudsman program services.

ACL does not have authority to evaluate or calculate the national poverty threshold.

Comment: One commenter recommended that AoA take actions to monitor Ombudsman programs, formally assess compliance with the Act, and apply sanctions for continuing non-compliance, including the use of graduated remedies and including de-designation to replace the Office where the Ombudsman fails to address major concerns of residents.

Response: It is our intention, through the implementation of this rule, that State agencies and Ombudsman programs will be better equipped to comply with the provisions of the Act. The State agency duty to provide for sanctions with respect to interference, retaliation and reprisals is addressed at § 1327.15(i). In addition, Federal regulation provides options for HHS grant-awarding agencies, including AoA, to respond when a grantee (the State agency in this circumstance) fails to comply with any term of an award. 45 CFR 75.371.

A. State Agency Policies

We proposed revision to § 1321.11(b) in order to clarify the responsibility of the State agency on aging (also referred to as ''State unit on aging'' and, for purposes of these regulations, ''State agency'') regarding appropriate access to the files, records and other information maintained by the Ombudsman program in its monitoring of the Ombudsman program. We substituted the term ''files'' with ''files, records and other information'' in order to accommodate the increased use of digital information and incorporate information obtained verbally and by other means, as well as to clarify that the disclosure provisions of the Act at section 712(d) are not limited to information that is contained in case (*i.e.* complaint resolution) records. For example, information collected during individual consultation activities which are not part of case files also would be subject to this provision.

Comment: Several comments indicated support for the proposed revision to 45 CFR 1321.11(b). Several comments indicated appreciation for the clarification. Others described the proposed revision as a modernization since it provides for various formats of information—including electronic formats and information obtained verbally. One comment indicated that the revision was an acceptable balance between Ombudsman program disclosure limitations and the needs of the State agency to provide oversight and monitoring of the Ombudsman program performance. One commenter indicated that this strengthens protection of resident-specific information. One commenter indicated support for removal of the provision that permits a State agency director or senior manager to review redacted files of the Ombudsman program. Other commenters indicated that the proposed revision supports and clarifies the responsibility of the Ombudsman to monitor the operations of the Office and to protect confidential information maintained in the files, records or other information of the Office.

Response: AoA appreciates the supportive comments.

Comment: Two commenters indicated that the final rule should include language that requires State agency and AoA to ''ensure that no conflicts of interest arise or persist.'' Another comment recommended that the rule require the State agency to develop a plan on how the Office of the State Long-Term Care Ombudsman is immunized from potential conflict of interest.

Response: We have addressed conflict of interest issues in the provisions set forth in § 1327.21 and believe the recommended changes would be redundant.

Comment: Two commenters indicated that the State agency should develop a plan on how the Office of the State Long-Term Care Ombudsman is immunized from interference by the State agency or other outside agencies to ensure autonomous advocacy.

Response: We have made changes to further clarify the manner in which States are to protect the Office from interference in other final rule provisions as a result of considering these and other related comments. Therefore, we believe that amending § 1321.11(b) to address interference, as recommended by commenters, would be redundant. Specifically, we have added a definition of ''willful interference'' at § 1327.1 and a new provision on State agency duties regarding interference, retaliation and reprisals at § 1327.15(i) in the final rule.

Comment: One comment indicated that AoA should clarify that it would be reasonable to require submission of aggregate data on complaint processing and activities and disclosure of

aggregate facility and provider-specific information by the Ombudsman to the State agency. Another commenter described that a local Ombudsman entity submits aggregate data to its respective area agency on aging (AAA), providing a balance of AAA need to have information and the Ombudsman program need to protect resident and complainant identifying information.

Response: We agree with the commenter that the submission of aggregate data of the Ombudsman program to the State agency as well as to an agency hosting a local Ombudsman entity is appropriate. This is clarified in the final rule at § 1327.15(e) with respect to the State agency.

Comment: One commenter recommended limitations on the use of the Ombudsman program information by the State agency so that the information is used solely for the purpose of oversight, and that it not be released outside of the State agency or be used for quality improvement or monitoring of other programs administered by the State agency.

Response: We do not agree that AoA should issue requirements regarding the appropriateness of the use of data which is permissible for disclosure by the State agency or other entities. The Act requires that Ombudsman program ''files and records . . . may be disclosed only at the discretion of the Ombudsman'' and prohibits disclosure of the identity of any complainant or resident except in limited circumstances. Section 712(d)(2) of the Act.

We believe that the final rule provisions related to disclosure limitations (at §§ 1327.11(e)(3),(8) and 1327.13(e)), as well as Ombudsman participation in the development of policies governing its operations (at §§ 1327.11(e), 1327.13(b)(1)), provide sufficient authority to the Ombudsman, in coordination with the State agency, to develop parameters about appropriate uses of aggregate Ombudsman program data.

Comment: One commenter suggested adding a provision encouraging Ombudsman programs to share non-confidential information with advocacy organizations and identifying information from a complainant with complainant permission.

Response: The Act provides the Ombudsman with the authority to determine disclosure of Ombudsman program information where it is not otherwise prohibited. *See* Section 712(d) of the Act. The final rule addresses this statutory requirement at § 1327.11(e)(3). We also note that aggregate data provided by each State's Ombudsman program to AoA through the National Ombudsman Reporting System is posted publicly on *www.agidnet.acl.gov* and *www.acl.gov.*

The Act provides the Ombudsman with the responsibility to determine appropriate disclosure of program information (unless it is otherwise prohibited), and this rule (at § 1327.11(e)(3)) requires development of policies and procedures regarding disclosure of program information. Beyond these requirements, AoA does not take a position on which specific information the Ombudsman should disclose to specific entities. However, we note that other provisions in this rule do require Ombudsman program coordination with other entities (see, *e.g.,* § 1327.13(h). Depending on the goals of coordinated activities, appropriate disclosure of information may support the success of such coordination.

Comment: One commenter suggested that the rule use the terms ''identity'' and ''identifying information'' consistently or provide explanation of the distinction in meaning.

Response: We have made changes in the final rule to consistently use the term ''identifying information'' or ''resident-identifying information'' and have omitted the term ''identity'' in provisions related to disclosure of information.

Comment: One commenter indicated that ''other information'' is ambiguous relative to which information is actually accessible and suggested adding ''retained by the Office.''

Response: In the proposed rule, we used the language ''files, records and other information maintained by the Office'' for consistency with the language of the relevant provision of the Act (*i.e.* ''files maintained by the program''). OAA section 712(d). We do not agree that the term ''retained by the Office'' provides more clarity than ''maintained by the Office,'' so have not revised this language in the final rule.

Comment: One commenter indicated that some States do not have a defined format for documenting consultations and that the proposed rule may suggest a specified procedure and documentation methodology for consultations.

Response: AoA does not intend to suggest any need for change in the manner that States document or collect data related to consultations in this rule. AoA requires States, through the National Ombudsman Reporting System (NORS), to report the total number and most frequent areas of consultation to facilities and of consultations to individuals. OMB Control Number 0985–0005. This rule does not require States to make any changes to their documentation of consultations or related data through NORS. In order to make any change in NORS, AoA is required to publish a notice in the **Federal Register** pursuant to the Paperwork Reduction Act. This rule does not constitute such a notice.

Comment: One commenter requested that language be added regarding the timeframe required to capture and retain records.

Response: Since the Ombudsman program is operated by States pursuant to grants of the Department of Health and Human Services (HHS), the Federal requirements related to retention of records maintained pursuant to HHS grants apply to records retention of the Ombudsman program. In general, grant recipients and their sub-awardees under the grant must retain financial and programmatic records, supporting documents, statistical records, and all other records that are required by the terms of a grant, or may reasonably be considered pertinent to a grant, for a period of 3 years from the date the final Financial Status Report is submitted by States to HHS. The HHS requirements related to the retention of records are found at 45 CFR 75.361. This Federal grant requirement does not prohibit State agencies, the Office of the State Long-Term Care Ombudsman, and/or a local Ombudsman entity from establishing record retention policies which are provide for longer retention periods than the Federal requirements.

Comment: One commenter indicated that the files should be the property, not only of the Office, but also of the representative of the Office.

Response: The final rule requires that the Ombudsman shall be responsible for the management of the files, records and other information of the Office, regardless of whether the files are physically maintained by representatives of the Office. We believe that indicating that the files, records, and other information are also the property of the representatives of the Office could create confusion. However, we have clarified that nothing in the final rule prohibits a representative of the Office or local Ombudsman entity from physically maintaining such information in accordance with Ombudsman program requirements at § 1327.13(d).

B. Definitions

Definition of Immediate Family

We proposed to define the term ''immediate family'' because it is used

repeatedly, but not defined, in section 712(f) of the Act related to conflict of interest. We proposed that ''immediate family, pertaining to conflicts of interest as used in section 712 of the Act, means a member of the household or a relative with whom there is a close personal or significant financial relationship.''

We selected this definition to describe relationships that could impair the judgment or give the appearance of bias on the part of an individual who is responsible to objectively designate an individual as the Ombudsman (under section 712(f)(1) of the Act) or on the part of the Ombudsman or officers, employees or representatives of the Office (under section 712(f)(2) of the Act). In developing the definition, we were informed by the Federal standards of ethical conduct related to impartiality in an employee's conduct. *See* 5 CFR 2635.502(a),(b).

We also note, that, under ACL's April 21, 2014 Guidance on Federal Recognition of Same-Sex Marriage (available at *http://www.acl.gov/Funding_Opportunities/Grantee_Info/Index.aspx*), an immediate family member who is a member of the household or a relative includes a spouse in a same-sex marriage.

Comment: Eleven commenters indicated that they supported the proposed definition. Of those, three commenters indicated that the proposal provided helpful clarification. One indicated that the absence of a definition has left it up to State agencies to interpret. One indicated that the definition reflects the reality that non-blood and non-marital relations may cause conflicts of interest.

Response: We appreciate the supportive comments.

Comment: One commenter suggested that we add language to the definition indicating that the definition ''is not intended to restrict the authority of the Ombudsman to refuse to designate, or to de-designate, other individuals whom the Ombudsman determines are not qualified or have a conflict of interest.''

Response: As the commenter correctly states, AoA does not intend to restrict the authority of the Ombudsman to designate or de-designate other individuals whom the Ombudsman determines are not qualified or have a conflict of interest. The authority of the Ombudsman to designate and de-designate is provided in the final rule at § 1327.13(c), rather than in the definition.

Comment: Eight commenters indicated that the proposed definition is not sufficiently clear or is too open to interpretation. Two commenters of these commenters asked for clarification of the terms ''immediate family,'' ''household,'' and ''direct and predictable effect.'' One commenter indicated that any relative working in a facility would pose a conflict for a representative of the Office who serves residents of that facility.

Response: After consideration of these comments, we have retained the proposed definition. We note that neither the proposed rule nor this final rule utilizes the term ''direct and predictable effect'' (although the Federal standards for ethical conduct do utilize the term).

We realize that not every question is addressed by this definition, but we believe it provides additional clarity to the provisions of the Act. In addition, while Federal interpretations of the regulation from which this definition was derived (5 CFR 2635.502(a),(b)) are not controlling, they may assist States in considering ways to apply this definition consistently with Federal government application to its employees.

Comment: One commenter asked about why the ''immediate family'' term does not include the situation where the close friend of a representative of the Office works at a facility and the complaint is against that person.

Response: The definition of the term ''immediate family'' is included in the rule in order to clarify the term, which is used in the Act. The term is used in the provisions of the OAA to specifically relate to conflicts of interest for the following situations:

(1) An individual who designates the State Ombudsman or local Ombudsman entity (section 712(f)(1));

(2) officers, employees, or representatives of the Office (section 712(f)(2)). By defining ''immediate family,'' ACL does not intend to indicate that the State agency is limited in its ability to identify other conflicts of interest, including conflicts of interest related to complaints lodged against a close friend of the Ombudsman or a representative of the Office. Moreover, in the provisions related to conflict of interest, the rule specifically indicates that the State agency is required to identify conflicts of interest and provides examples, but not limitations, of the types of conflicts to be identified (§ 1327.21(a), (c)).

Definition of Office of the State Long-Term Care Ombudsman

AoA proposed a definition of the ''Office of the State Long-Term Care Ombudsman'' due to inconsistencies among States and confusion regarding which individual or individuals constitutes the ''Office.'' For example, we believe that States will benefit from clarification regarding who is responsible for making determinations specifically required of the Office by the Act.

A 2011 State compliance review revealed that AoA's provision of technical assistance and education on this question may not have provided sufficient clarity to States regarding the decision-making authority expected of the Office, and more specifically of the Ombudsman, as the head of that Office. Thus, this rule clarifies and codifies the definition.

In the final rule, we have modified the definition to clarify that the Office is the organizational unit in a State or territory which is headed by the Ombudsman. We have provided an additional definition for ''State Long-Term Care Ombudsman program'' in order to distinguish this term from the ''Office'' since the ''Office,'' in some States, is organizationally separate from local Ombudsman entities. We recognize that in other States where the Ombudsman does not designate local Ombudsman entities, the Office will be identical to the ''State Long-Term Care Ombudsman program.'' Regardless of the organizational structure, the definition of ''State Long-Term Care Ombudsman program'' in § 1327.1 is inclusive of the Ombudsman, the Office, and the representatives of the Office.

Comment: We received ten supportive comments on the proposed definition. Several commenters indicated that the proposal would provide helpful clarity. Two commenters indicated that the proposed definition would enhance the concept that the Ombudsman program is to be a unified program within the State. Another indicated that the proposal would appropriately distinguish the Office and reinforce the responsibility of representatives of the Office.

Response: We appreciate the supportive comments.

Comment: One commenter suggested consideration of the addition of the following language: ''the Office of the State Long-Term Care Ombudsman is not the State agency on aging or State licensing agency.''

Response: While we do not disagree with the comment, we do not believe a change from the proposed definition is needed. We believe that the definition as it was proposed, particularly when it is taken in context with the provisions of § 1327.11 (regarding the establishment of the Office), provides adequate clarity that distinguishes the Office from both the State agency (while recognizing that the Office may be organizationally situated within or

attached to the State agency) or the State licensing entity.

Comment: One commenter asked the question whether, since the definition of ''Office'' includes representatives, only the Ombudsman can determine these positions and whether a State agency or an Ombudsman could establish a policy that prohibits representatives of the Office from taking positions without approval or that prohibits positions that are different than the Office.

Response: We have revised the definition of ''Office of the State Long-Term Care Ombudsman'' in the final rule so that it does not include the representatives of the Office. The Act indicates that ''The State agency shall require the Office to . . . recommend any changes in . . . laws, regulations, and policies as the Office determines to be appropriate;'' Section 712(h)(2) of the Act. We interpret this provision to mean that it would be inappropriate for a State agency to prohibit the Office from taking a particular position related to a recommendation in changes to relevant laws, regulations, and policies. Doing so would interfere with the responsibility of the Office to make such determinations. *See* §§ 1327.11(e)(8); 1327.13(a)(7); 1327.15(k)(2).

The Act provides that the Office shall be headed by the Ombudsman in section 712(a)(2) and specifically defines the word ''Ombudsman'' as the ''individual described in section 712(a)(2).'' Section 711(2) of the Act. Taken together, we read the statute to indicate that, as the head of the Office, the Ombudsman has the authority to determine the positions of the Office as well as the processes by which such determinations are made within the Office. Therefore, we believe the Act would not prohibit an Ombudsman from establishing a policy that limits the ability of representatives of the Office from taking positions without approval of the Ombudsman or that are different than that of the Ombudsman.

AoA encourages each Ombudsman to solicit and consider the views of representatives of the Office, to encourage dialogue among representatives of the Office in formulating the positions of the Office, and to empower representatives of the Office to carry out their duties under section 712(a)(5) of the Act, including duties to ''represent the interest of residents before government agencies'' (section 712(a)(5)(B)(iv)) and ''review, and if necessary, comment on any existing and proposed laws, regulations, and other government policies and actions, that pertain to the rights and well-being of residents'' (section 712(a)(5)(B)(v)(I)).

Definition of Representatives of the Office of the State Long-Term Care Ombudsman

In proposing a definition of ''Representatives of the Office of the State Long-Term Care Ombudsman,'' we intended to clarify that the representatives of the Office, including employees and volunteers designated by the Ombudsman, represent the Office (as opposed to the entity by which they may be employed or managed) when they are carrying out duties of the Office set forth at § 1327.19.

We further intended to clarify that the ''representatives of the Office'' are to be accountable to the head of the Office (*i.e.* the Ombudsman) for purposes of Ombudsman program operations. For all programmatic operations, the representative represents the Office (for example, they must follow the policies, procedures and guidance of the Ombudsman regarding complaint processing and other Ombudsman program activities). Simultaneously, those representatives of the Office who are organizationally located within local Ombudsman entities also represent the agency hosting the local Ombudsman entity, as this agency oversees them for personnel management matters (for example, the representative of the Office must follow the agency's personnel policies so long as those policies do not conflict with Ombudsman program law and policy).

Comment: Ten commenters indicated support for the proposed definition. One commenter indicated that the proposal recognizes that both employees and volunteers are to be considered representatives of the Office, regardless of the entity that provides direct supervision. Two comments indicated that the proposal would clarify that representatives of the Office are to be held accountable to the Ombudsman, regardless of whether affiliated with another entity. Another commenter indicated that the proposal should serve to unify the Ombudsman program within a State. One commenter indicated that this definition helps clarify for facilities whether they may appropriately provide volunteer representatives of the Office with access to residents and to whom facilities should address inquiries.

Response: We appreciate the supportive comments.

Comment: One commenter indicated that the proposal did not go far enough to address the risks to the individual representative of the Office who is organizationally located within local Ombudsman entities, given that the individual is reporting to one authority for programmatic matters and another for personnel management matters.

Response: We acknowledge that representatives of the Office who are employed by or who volunteer for a local Ombudsman entity can be in a difficult position when reporting to one authority for programmatic matters and another for personnel management matters. The OAA sets up a distinctive and highly unusual structure in which the Ombudsman is responsible for designating all representatives of the Office but is (depending on the State's chosen programmatic structure) not necessarily the authority for personnel management matters. We believe that those States which choose to utilize local Ombudsman entities may operationalize the requirements of the Act by dividing the authority between the personnel functions of the agency hosting the local Ombudsman entity, including hiring and firing, and the programmatic functions of the Ombudsman, including designation and de-designation. Despite the fact that the State agency (and/or the Office of the State Long-Term Care Ombudsman, depending on the organizational structure) contracts with an agency hosting the local Ombudsman entity to provide Ombudsman program services, the relationship is more complex than a typical contractual one. In addition to contract oversight for programmatic issues, the Ombudsman is also responsible for designation of the representatives of the Office. Further, the employees and volunteers of the local Ombudsman entity (*i.e.* representatives of the Office) have a direct representational relationship to the Office. As a result, this relationship between the Ombudsman and the agency hosting the local Ombudsman entity is not limited to merely a contract oversight function.

We believe that, in the absence of regulation, many State agencies and agencies hosting local Ombudsman entities have found this distinctive relationship to be confusing and difficult to successfully implement. It is the intention of AoA to clarify this distinctive relationship through this definition, as well as through other provisions of this rule. We believe this clarification will help both States and agencies hosting local Ombudsman entities to operationalize the Ombudsman program in a manner consistent with what Congress intended and help to reduce the risks to the individual representatives of the Office. If all entities and individuals involved in operating the Ombudsman program understand that, where local Ombudsman entities are utilized in a

State, there is a separation between programmatic oversight and personnel management, and the policies of the Ombudsman program appropriately implement this separation, this should help the individual representatives know to whom they are accountable for programmatic matters (*i.e.* the Ombudsman) and to whom they are accountable for personnel management matters (*i.e.* the agency hosting the local Ombudsman entity). We believe that the proposed definition, and the context of the entire rule, provides clarity that directly relates to the cause of the risks identified by the commenter.

Comment: One commenter indicated that in their State, Ombudsman program volunteers are appointed by county commissioners, not designated by the Ombudsman. As a result, when a volunteer does not appropriately perform programmatic duties, the appointing authority—and not the Ombudsman—has the only authority to remove the volunteer from this role.

Response: We appreciate the commenter bringing this issue to our attention in the comment. The Act is clear that the Ombudsman has the authority to designate representatives of the Office. Section 712(a)(5) of the Act. Further, this rule clarifies that the Ombudsman has the sole authority to designate and de-designate representatives of the Office. § 1327.13(c). AoA plans to provide technical assistance to States to assist them in coming into compliance with this rule.

Comment: One commenter suggested that the proposed definition could be strengthened with a citation to OAA section 711 and with inclusion of language regarding personnel management of the local Ombudsman entity which cannot conflict with Ombudsman law and policy.

Response: We have included reference to section 711 of the Act in the definition of ''State Long-Term Care Ombudsman program'' in the final rule. We also agreed with the commenter's suggestion to incorporate into the final rule the inclusion of the concept, included in the preamble of our proposed rule, related to personnel management of the agency hosting the local Ombudsman entity not conflicting with Ombudsman law and policy. We have incorporated this concept into a new provision at § 1327.17(b).

Additional Recommended Definitions

Numerous commenters suggested the need for additional definitions of terms used in the proposed rule and/or the Act.

Comment: Ten commenters recommended that the final rule define the term ''willful interference.'' Some of them indicated that the definition was needed to clarify and support the requirement in the Act that the Office and its representatives are free from interference in the course of performing required functions. Several commenters offered suggested language defining the term.

Response: We have added a definition of ''willful interference'' at § 1327.1. We have also developed new provisions regarding interference, retaliation, and reprisals in response to these and other comments at § 1327.15(i).

Comment: One commenter recommended that the final rule define the term ''long-term care Ombudsman program.'' The commenter indicated that the term ''program'' is commonly used to describe both the State Office and local Ombudsman entities and is described in the Act, at sections 711(4) and 712(a)(1)(B), as the mechanism through which the Office carries out its duties.

Response: We appreciate this helpful comment. We understand the use of these terms can be confusing due to the variety of organizational structures used by States. Therefore, in some States which use a centralized structure, the Office of the State Long-Term Care Ombudsman is made up of the individual who is the State Long-Term Care Ombudsman and representatives of the Office, and is structurally the same as the ''program.'' In other, more decentralized organizational structures, the ''program'' is a combination of the ''Office of the State Long-Term Care Ombudsman'' and the ''representatives of the Office'' who are organizationally located within ''local Ombudsman entities.''

In response to this comment, we have added a definition of ''State Long-Term Care Ombudsman program,'' revised the definition of ''Office of the State Long-Term Care Ombudsman'' in order to more clearly distinguish between the meanings of these terms, and separated out the provisions related to the agencies hosting local Ombudsman entities in a new section § 1327.17.

Specifically, to the definition of ''Office of the State Long-Term Care Ombudsman'' we have added the term ''in a State or territory'' and deleted ''including the representatives of the Office.'' We have included the provision regarding ''representatives of the Office'' within a new definition for the term ''State Long-Term Care Ombudsman program'' and indicated that it is through the State Long-Term Care Ombudsman program that the functions and duties of the Office are carried out.

Comment: One commenter recommended that the term ''State agency'' be defined as it is used frequently in the proposed rule.

Response: The final rule is part of subchapter C Administration on Aging, Older Americans Programs of chapter XIII of the Code of Federal Regulations. Part 1321 of subchapter C provides a detailed explanation of the responsibilities of the State agency which include, but are not limited to, its responsibilities in carrying out the State's Ombudsman program. We did not adopt the recommendation to include a definition for ''State agency'' within these regulations, which are limited to operations of the Ombudsman program.

However, to provide additional clarity, we have included language in § 1327.15(a),(e) to cross reference the term ''State agency'' to the related provision in 45 CFR part 1321.

Comment: Seven commenters recommended that we add a definition for the term ''legal representative'' and/or clarify the distinction between ''legal representative'' and ''resident representative.'' One indicated that a reader might mistakenly interpret the term ''legal representative'' to mean a resident's lawyer.

Response: We agree that it would be helpful to use one term consistently. While the Act uses the term ''legal representative,'' we agree that the term ''resident representative'' may be less confusing; since a reader is unlikely to interpret the use of ''resident representative'' to an attorney or court-appointed representative unlike ''legal representative.'' In response to these comments, we have consistently used the term ''resident representative'' throughout the final rule, and we have added a definition of the term in § 1327.1. We also note that, under ACL's April 21, 2014 Guidance on Federal Recognition of Same-Sex Marriage (available at *http://www.acl.gov/Funding_Opportunities/Grantee_Info/Index.aspx*), a spouse in a same-sex marriage could serve as a resident representative.

We intend for our definition of ''resident representative'' to be consistent with the person-centered approaches to Ombudsman program services. The ''resident representative'' is authorized to provide permission for a representative of the Office to perform the certain tasks when a resident is unable to communicate informed consent or prefers to have a representative act on his/her behalf. Those tasks include: Access to resident

records; disclosure of the resident identifying information; and initiation of the investigation a complaint, coordination of the investigation and resolution approach, and determination of the resolution of the complaint. Relevant provisions are found in the regulations related to complaint processing at § 1327.19(b) and related to disclosure of resident-identifying information at § 1327.11(e)(3).

Comment: One commenter recommended that we remove the use of the term ''resident representative'' because they found it confusing and ambiguous.

Response: For the reasons indicated above, we have chosen to continue to use the term ''resident representative'' consistently and to replace the term ''legal representative'' where that was used in the proposed rule.

Comment: Two commenters recommended that we add a definition for the term ''protection and advocacy systems.''

Response: We did not add a definition of the term ''protection and advocacy systems'' but instead have revised the description of protection and advocacy systems in the final rule at § 1327.13(h)(4).

Comments: One commenter recommending adding a definition to clarify that designation and de-designation includes certification and de-certification. The commenter indicated that some States use the term ''certification'' to apply to individuals and ''designation'' for the local Ombudsman entity.

Response: We do not agree that a definition is needed, as we believe the commonly defined use of these terms is sufficient to explain the use of these terms. According to the *Merriam Webster Dictionary,* to ''certify'' means ''to say officially that something or someone has met certain standards or requirements'' and ''designation'' means ''appointment to or selection for an office, post, or service.''

Therefore, in the context of the Ombudsman program, the Ombudsman certifies (*i.e.* officially says) that an individual has met the training and other requirements necessary for an individual to serve as a ''representative of the Office.'' Further, the Ombudsman designates (*i.e.* appoints or selects) an individual to be a ''representative of the Office'' and designates a ''local Ombudsman entity'' to assist in providing the Ombudsman program services at the local level. Certification that an individual has met required training requirements is one of the factors (along with other relevant factors, such as freedom from unremedied conflict of interest and employment by or volunteer agreement with a local Ombudsman entity, where applicable) to be considered in the Ombudsman's determination that the individual is qualified to be designated as a ''representative of the Office.''

Comment: One commenter recommended that we add a definition for the term ''aggregate data,'' indicating that this relates to the scope of the State agency's access to Ombudsman program data while permitting the Ombudsman program to adhere to confidentiality requirements.

Response: We do not agree that a definition is needed, because the common definitions of the words ''data'' and ''aggregate'' are sufficient. According to the *Merriam Webster Dictionary,* the adjective ''aggregate'' means ''formed by adding together two or more amounts'' and ''taking all units as a whole.'' The word ''data'' means ''facts or information used usually to calculate, analyze, or plan something.'' Further, the provisions regarding establishment of policies and procedures regarding disclosure at § 1327.11(e)(3) provide sufficient clarity on the relevant requirements of the Act.

Comment: One commenter recommended that we add a definition for the term ''unable to communicate informed consent,'' indicating that the term is ambiguous.

Response: We believe that the term ''unable to communicate informed consent'' improves the clarity of the term ''unable to consent'' which is used in the Act, related to Ombudsman program access to resident records. Section 712(b)(1)(B)(i)(II) of the Act. Our expectation is that States will operationalize the use of this term by incorporating it into the Ombudsman program's procedures for resident records and complaint processing. We are also available to provide States with technical assistance should the need arise for further clarity on how to operationalize this term within Ombudsman program operations.

C. Establishment of the Office of the State Long-Term Care Ombudsman

The regulations at § 1327.11 clarify for States how to appropriately establish the Office pursuant to section 712(a)(1) of the Act. This includes clarification regarding the determinations which are the responsibilities of the Office, and by the head of the Office (*i.e.* the Ombudsman), pursuant to section 712(h) of the Act. Because these determinations are frequently outside the scope of the authority of most State employees (many, though not all, Ombudsmen are State employees), we believe that this clarification will assist States in full implementation of the Act.

Specifically, the Office is required by the Act to make determinations regarding:

- Disclosure of information maintained by the Ombudsman program;
- Recommendations to changes in Federal, State and local laws, regulations, policies and actions pertaining to the health, safety, welfare, and rights of residents; and
- Provision of information to public and private agencies, legislators, and other persons, regarding the problems and concerns of residents and recommendations related to the problems and concerns.

The Act indicates that the recommendations made by, and the information provided by, the Office are limited to issues pertaining to residents of long-term care facilities and services. *See* section 712(a)(3)(G), (h)(2)–(3) of the Act. In order to reduce confusion at the State level where the recommendations of an Ombudsman might be mistaken for the position of the Governor or the State agency, another agency carrying out the Ombudsman program, or any other State agency, AoA proposed clarification that these determinations are those of the Office of the State Long-Term Care Ombudsman and do not represent other State governmental entities.

Comments: We received seven comments indicating general support for § 1327.11 as proposed. Some of these commenters indicated that the proposed language provides critically needed clarity for the Ombudsman program to accomplish its intended role under the Act. Some commented that the proposal clarifies that the Office must operate as a separately identifiable Office, regardless of its organizational location. One commenter indicated that the proposed language confirms that the Ombudsman program should operate as an integrated whole with the Ombudsman providing direction, authority, and programmatic supervision to all designated representatives.

Two of these commenters indicated that some State agencies have prohibited the Office from engaging in activities required in the Act because of concern that the Ombudsman would make determinations that would be contrary to those of the State agency or the executive branch; they indicated that the proposed language is necessary to address these concerns. One commenter indicated that the proposed language would strengthen the independence of the Office. Another

commenter indicated that the proposed language appropriately allows States flexibility to best serve residents and maintain compliance with the Act.

Response: We appreciate the supportive comments.

Comment: Two commenters indicated that AoA should require the Office to be placed outside of the State government. Another commenter disagreed with the proposed language permitting the Office to be located within or connected to the State agency, indicating that it is difficult to imagine what an Ombudsman faces in advocating for residents where he or she has a peer at a regulatory agency. Another commenter indicated that the final rule should require that the State contract the Ombudsman program with a nonprofit entity to ensure that the Ombudsman has the ability to operate independently. One of these commenters indicated that they are in a State where the Ombudsman program is independent of any State agency and that this has worked well to serve the interests of individuals served by the program.

One of these commenters indicated that advocacy and government bureaucracies are rarely compatible and that residents would be better served if Ombudsman programs were contracted out to private nonprofit entities. In support of this perspective, this commenter cited a 2001 study finding that of the nine Ombudsmen reporting conflicts of interest due to program placement, 100% were located in State agencies on aging. While eleven of thirty-seven (30%) Ombudsmen located within State agencies on aging reported that Office organizational placement limited their ability to speak with legislators and/or the media, one of fifteen (7%) Ombudsmen in other types of agencies reported experiencing limitation on autonomy due to the organizational placement of their Office. This commenter recognized that the Act permits State agencies to operate the Office and that the Act would need to be changed to achieve this recommendation.

One of these commenters indicated that placement of the Ombudsman program within a non-profit entity allows for leveraging of private and other funds and supports effective investigation and intervention. This commenter indicated that the Ombudsman must be able to articulate positions that may be critical of a State agency in order to adequately represent residents.

Response: Congress has indicated through the Act that it is the responsibility of the State agency to establish and operate an Office and has expressly provided the opportunity for the State agency to carry out the Ombudsman program directly or by contract or other arrangement with a public agency or nonprofit private organization. Section 712(a)(1), (4) of the Act. AoA recognizes that the advocacy function of the Office may be a difficult fit within government bureaucratic structures and under policies governing State employees in some States. It is our intent to assist States agencies, through this rule, to clarify their responsibilities to carry out all of the requirements of the Act and to assist them in considering whether their organizational structure and State employee policies can adequately support a fully functioning, effective Ombudsman program.

We also recognize that effective consumer advocacy entities can and do successfully exist within some State governments. In some States, the Office is not the unique consumer advocacy entity located within State government.

While we agree that a non-profit agency might be able to access diverse funding sources, we also note that a number of State agencies provide significant resources to the Office in addition to the Federal grant funds appropriated under the Act.

Comment: One commenter expressed concern that the proposed rule grants excessive authority to the Ombudsman at the expense of local Ombudsman entities and that the Ombudsman is held accountable to no one. The commenter expressed concern about the ability of local Ombudsman entities to advocate for residents in States where the Ombudsman misuses this power and indicated that the proposed regulations provide for no recourse for situations in which the Ombudsman's actions violate the Act.

Response: We believe that the proposed rule appropriately follows the provisions of the Act which clearly set forth the Ombudsman (*i.e.* State Ombudsman, not all representatives of the Office) as responsible for the leadership of the Office, as the head of the Office. Section 712(a)(2) of the Act. We disagree with the assertion that the Ombudsman is accountable to no one. State agencies and other agencies which house the Office have the authority to provide personnel supervision and the ability to take personnel actions related to the performance of the Ombudsman as they would with any other employee. Some States have also set up additional mechanisms for accountability of the Ombudsman program, including governing or advisory boards. The Act does not prohibit the State agency or the Office from establishing additional mechanisms for accountability so long as the Ombudsman can fully perform his or her functions under the Act.

The Ombudsman program is established through OAA grants to State agencies on aging. State agencies are required to assure AoA that the Ombudsman program is established and carried out consistent with the provisions of the Act. If AoA determines that a State fails to comply with any term of an award, AoA, as the granting agency, has several remedies available to it, including but not limited to wholly or partly suspending or terminating the award. 45 CFR 75.371.

Comment: One commenter, in reference in § 1327.13(a), questioned the ability of an Ombudsman to serve on a full-time basis if other populations are served beyond the scope of the Act.

Response: We have added clarity to a new provision at § 1327.11(c) in the final rule by indicating that full-time shall mean that the functions and responsibilities set forth in this section are to constitute the entirety of the Ombudsman's work. AoA does not object to a State choosing to utilize non-OAA resources for the Ombudsman program to provide services to additional populations (for example, to recipients of in-home long-term services and supports), so long as the functions and responsibilities relating to the expanded population are consistent with the services of an ombudsman. The State agency or other agency carrying out the Ombudsman program shall not require or request the Ombudsman to be responsible for leading, managing or performing the work of non-ombudsman services or programs except on a time-limited, intermittent basis. This provision is not intended to limit the ability of an Ombudsman to access grants or otherwise perform special projects so long as the activities of the grant or project are consistent with the functions and responsibilities of the Ombudsman.

Comment: Two commenters (one commenting on § 1327.11 and the other commenting on § 1327.13) recommended that the final rule include qualifications or criteria for hiring the Ombudsman. One of these commenters indicated that the Ombudsman program would benefit from strong Federal standards in this domain since Ombudsmen who lack basic qualifications for the position are likely to not perform well. This commenter recommended that Ombudsman candidates have a strong background in the Ombudsman program or ensure that a newly hired Ombudsman promptly complete State certification training, as required by representatives of the

Office, and complete an internship within a long-term care facility. Without qualifications, the commenter wondered how AoA could remedy situations in which the State hires an unqualified candidate.

The other commenter suggested examples of recommended criteria: Knowledge of the long-term care system; demonstrated evidence of resident-focused advocacy on both an individual and systemic basis; knowledge of State and local government; communication, management, and conflict resolution skills; and clinical and/or direct health and human services experience.

Response: We agree with the commenters that minimum qualifications for the Ombudsman could be helpful to ensure selection from among highly-qualified candidates with appropriate expertise. We note that AoA has provided States with guidance on Ombudsman minimum qualifications since 1981, when it indicated that the Ombudsman ''should minimally possess the following qualifications:

a. Demonstrated experience with long-term care systems or professional training in long-term care and institutions;

b. Program development background and skills;

c. Administrative, arbitration, conciliation and/or negotiation experience and skills;

d. Experience or education in gerontology and/or aging programs.'' AoA Program Instruction 81–8.

Based on the 1981 guidance, the qualifications indicated in the Act (*i.e.* ''expertise and experience in the fields of long-term care and advocacy.'' Section 712(a)(2)), and considering these comments, we have developed a new provision regarding minimum qualifications at § 1327.11(d).

Comment: One commenter indicated that the proposed provisions at § 1327.11 would be difficult for States to implement and for AoA to uphold. The commenter indicated that in their State, the Ombudsman is an employee of the State agency on aging and bound by its policies regarding communications with the legislature and the media. Therefore, the Ombudsman is currently unable to independently make determinations, make recommendations for changes to policies, or provide information to the public. The commenter indicated that, for AoA to suggest that the Ombudsman has authority to override his or her supervisor, agency director, and Governor, shows that AoA is not in touch with the realities of State government and the context in which Ombudsmen must work. Another commenter indicated that it is unrealistic for AoA to think that an Ombudsman employed by a State agency can make recommendations which conflict with those of the State agency or the Governor.

Response: We appreciate the commenters' perspectives of the circumstances in their States. We would like to clarify that the rule does not suggest that the Ombudsman has the authority to override his or her supervisor, agency director, or Governor. However, the Act requires that any State, in order to receive grant funds under the Act, assure to AoA that, among other things, it will permit the Ombudsman to fulfill all of the functions under the Act. These include the ability to make certain determinations which represent the positions of the Office, and not necessarily those of the supervisor, agency director, or Governor. A number of State agencies or other agencies in which the Office is organizationally located already include language in their personnel policies or other relevant laws or policies which implement this requirement of the Act.

In order to reduce confusion at the State level where the recommendations of an Ombudsman might be mistaken for the position of the Governor or any other agency, AoA has specifically indicated in the final rule that these determinations and positions are to be those of the Office and do not represent other State entities. § 1327.13(a)(7)(vi).

We wish to remind the commenters that their States have previously provided to AoA assurances in its State plan on aging that they will carry out the Ombudsman program in compliance with the Act. These State plans were signed by their respective governors and submitted to AoA for approval and as a condition of receiving grant funds under the Act.

We respectfully disagree with the comment that AoA is not in touch with the realities of State government and the context in which Ombudsmen must work. In fact, numerous AoA staff have had previous employment experience within State government entities, and AoA staff regularly communicate with State government entities. AoA is aware that the Act requires functions of the Ombudsman program that are uncharacteristic of other programs and services under the Act and that these requirements have been challenging for some States to successfully implement. AoA is also aware of the wide variations among States in their implementation of programs and services under the Act. Numerous States that have been able to successfully implement the Ombudsman program, even when the Office is organizationally located within State government.

The Act specifically provides for the opportunity for the State agency to carry out the Office through a contract with a nonprofit entity. Section 712(a)(4) of the Act. Should any State government be unable to follow the requirements of the Act and this final rule when it houses the Office within State government, it has the opportunity to seek other arrangements to enable the Office to fulfill all of its statutory responsibilities and to, most importantly, effectively serve residents of the State's long-term care facilities. Currently, Offices in six States and the District of Columbia are organizationally located outside of State government.

Comment: Eleven commenters indicated general support for the proposed language in § 1327.11(b), describing the Office as a ''distinct entity, separately identifiable'' regardless of its organizational placement. One of these commenters indicated support for the language as it assures autonomy of the Office to advocate for residents. Another indicated that the proposed language would ensure the independence of the Office and would strengthen the Ombudsman program. One commenter described the proposed language as an excellent clarification of the responsibilities of the Office that will benefit all levels of the organization in carrying out the Ombudsman program functions. Another commenter indicated support for the language in that it permits State agency flexibility to decide the best location for the Ombudsman program in order to best serve residents and maintain compliance with the requirements of the Act.

Response: We appreciate the supportive comments.

Comment: One commenter described challenges to implementation of § 1327.11 where a representative of the Office is hosted within an area agency on aging with organizational conflicts of interest.

Response: We have described this comment more fully and responded in more detail in section H. Conflicts of interest, below.

Comment: Four commenters indicated general support for the proposed language of § 1327.11(c) (moved in the final rule to § 1327.11(e)(8)) regarding the ability of the Ombudsman to independently make certain determinations and establish certain positions of the Office. One of these commenters indicated that this clarification will encourage Ombudsmen to work with

representatives of the Office to bring forth resident issues. Another indicated that the proposed language is helpful because independence is critical to the Ombudsman program's ability to carry out all of its functions and duties.

Response: We appreciate the supportive comments.

Comment: One commenter recommended that the final rule include a definition of the term ''determinations'' as used in proposed § 1327.11(c) (moved in the final rule to § 1327.11(e)(8)).

Response: We do not agree that a definition is needed because the common definition of the word ''determination'' is sufficient. According to the *Merriam Webster Dictionary,* ''determination'' means ''the act of officially deciding something.'' Further, we believe that the provisions regarding determinations at § 1327.11(e)(8), when read in the context of the provisions related to the functions and responsibilities of the Ombudsman (§ 1327.13) and the State agency responsibilities related to the Ombudsman program (§ 1327.15) provide sufficient guidance on the Act's requirements related to Ombudsman determinations.

Comment: One commenter suggested the need for a definition of ''independently.''

Response: We do not agree that a definition is needed because the common definition of the word ''independent'' is sufficient. According to the *Merriam Webster Dictionary,* ''independent'' means ''not requiring or relying on something else; not contingent.'' Further, we believe that the provisions in the final rule regarding the Ombudsman independently making determinations and establishing positions, the functions and responsibilities of the Ombudsman, the State agency responsibilities, and conflicts of interest provide sufficient clarity on the Act's requirements related to Ombudsman independence.

Comment: One commenter inquired about an appeal process if the Office organizational structure does not permit independence or adherence to the provisions of § 1327.11.

Response: No formal Federal appeal process exists for review of the independence of the Office. State agencies may develop appeal processes for these or other grievances. The final rule does require the development of a grievance process regarding determinations or actions of the Ombudsman or the representatives of the Office. § 1327.11(e)(7). Moreover, it is ACL's intention, through this final rule, to clarify the requirements in the Act so that States, in carrying out the Ombudsman program through OAA grants, will better understand their responsibility to assure that the Ombudsman has the ability to perform all of the functions and responsibilities set forth in the Act.

Comment: One commenter inquired whether there may be other situations in which the Ombudsman may need to make determinations and whether the rule should provide for these other situations.

Response: The final rule at § 1327.11(e)(8) addresses all of the determinations of the Office which are specifically required in the Act.

Comment: One commenter suggested that language be added to § 1327.11(c) (moved in the final rule to § 1327.11(e)) to specify that a ''nonprofit organization'' could be carrying out the Ombudsman program.

Response: The language in § 1327.11(b)(2) is sufficiently clear that the State agency may enter into a contract or other arrangements with a ''nonprofit organization'' to establish the Office. We believe the term ''State agency or other agency'' is sufficient to cover the variety of entities in which the Office can be organizationally located.

Comment: One commenter indicated that the proposed language regarding Ombudsman determinations could be interpreted to mean that the Ombudsman must individually approve all disclosures, testimony or information provided by any local Ombudsman representative on a public policy issue. The commenter indicated that an Ombudsman might choose to delegate some determinations to local Ombudsman entities.

Response: We do not intend for the proposed provision to limit ability of Ombudsman to utilize representative of the Office for appropriate tasks in order carry out the determinations of the Office. We do not believe that the proposed or final rule, at § 1327.11(e)(8), limits this ability.

Comment: With respect to § 1327.11(c)(2) (moved in the final rule to § 1327.11(e)(8)), regarding recommendation to changes in laws, regulations, etc., one commenter indicated that in their State, the Ombudsman is organizationally located within an umbrella State government structure and must adhere to State government protocols related to legislative action and lobbying. The commenter requested consideration for differences in structure of the Office from State to State.

Response: The language in the final rule at § 1327.11(e)(8) is derived directly from the Act which states that making recommendations to changes in laws, regulations, etc. is a function of the Ombudsman. Section 712(a)(3)(G)(ii) of the Act. Further, the Act requires State agencies to require the Office to analyze, comment on, monitor and recommend changes to laws, regulations, and policies, and provide information to, among others, legislators. Section 712(h)(2),(3) of the Act. We do not believe that AoA has the authority under the Act to make this provision optional for some States and not others.

The Act creates the Ombudsman program to resolve problems for residents of long-term care facilities on individual as well as systemic levels. Therefore, the ability to take positions and make recommendations that reflect the interests of residents is critical to the effectiveness of the Ombudsman program.

Comment: One commenter recommended that we add ''the media'' to the list of persons to whom information can be provided by the Office in proposed regulation § 1327.11(c)(3). The commenter indicated that providing access to the media logically follows from the statutory authority of the Office to provide information and recommendations and to facilitate public comment. The commenter says that there have been instances of State agencies and local Ombudsman entities that have restricted Ombudsman program contact with the media and that explicit inclusion of this term in the regulation would be helpful.

Response: We have accepted this recommendation in the final rule, revising § 1327.11(c)(3) (moved in the final rule to § 1327.11(e)(8)(iii)). We believe it further clarifies implementation of the Act. Further, it is consistent with the AoA 2011 finding of non-compliance regarding information dissemination in a State which required State agency and Governor prior approval of Ombudsman program press releases and which used orders and intimidation to ensure the cancellation of press conference activities. As we indicated in the AoA compliance review of this State, while we encourage Ombudsman programs to have excellent lines of communication with their State agency to avoid blind-side surprises, the Ombudsman must have the option to communicate with the media in order to advocate for residents and their interests.

Comment: One commenter suggested that we move § 1327.11(c)(4) so that it modifies subparagraphs (1)–(3) rather than standing alone as a separate activity.

Response: We have moved this provision to § 1327.13(a)(7)(vi) (regarding functions of the Ombudsman) in the final rule where it more clearly modifies the determinations of the Office related to recommendations and information dissemination.

Comment: One commenter indicated that the proposed language in § 1327.11(c)(4) is beneficial to State agencies in order to distinguish determinations and positions of the Office as not necessarily representing those of the State agency. The commenter indicated that the proposed language makes the reality of opposed positions and determinations understood and explainable.

Response: We appreciate the supportive comment.

Comment: One commenter suggested that the Ombudsman should have the authority to make autonomous hiring and firing decisions and should be solely responsible for determining the qualifications and positions necessary for the Ombudsman program to fulfill its mission. Without such a provision, the commenter indicated that States could significantly undermine the functions of the Ombudsman program by limiting who and what types of staff the Ombudsman is able to hire and retain.

Response: The Act specifically gives the Ombudsman the authority to designate local Ombudsman entities and to designate representatives of the Office. Section 712(a)(5) of the Act. It does not, however, require an arrangement where representatives of the Office are directly hired or fired by the Ombudsman. In many States, local Ombudsman entities are hosted by an agency that is not the same agency that employs the Ombudsman. This arrangement is envisioned by the Act, not prohibited by it. In fact, the most frequently utilized organizational structure for Ombudsman programs is that the Office is organizationally located within or is attached to the State agency which contracts with agencies hosting local Ombudsman entities.

In light of the Ombudsman responsibility to designate representatives of the Office, we encourage Ombudsmen and State agencies to develop policies and procedures that: (1) Coordinate the hiring and firing of individuals by agencies hosting local Ombudsman entities with the Ombudsman and (2) incorporate minimum qualifications. Such coordination will enable the Ombudsman to make designation and de-designation determinations in ways that are coordinated with the employing agency which hosts the local Ombudsman entity.

In addition, we require Ombudsmen or State agencies, in this final rule, to develop policies and procedures regarding conflicts of interest in employing or appointing representatives of the Office. § 1327.11(e)(4)(ii). We have also added a new section regarding responsibilities of agencies hosting local Ombudsman entities at § 1327.17.

D. Functions and Responsibilities of the State Long-Term Care Ombudsman (§ 1327.13)

In § 1327.13, AoA provides clarification regarding the functions and responsibilities of the Ombudsman, as the head of the Office.

Comment: Eight commenters indicated support for the proposed language in the proposed regulation § 1327.13. Three of these commenters indicated that the language clearly describes the leadership role of the Ombudsman as the programmatic head of the Office. One commenter stated that the proposed language will identify the Ombudsman as responsible for the leadership and management of the Office. Three commenters stated that the language reflects the intent of Congress as set forth in the Act for the Office to be a unified entity. One commenter indicated that the language supports the concept that the Office speaks with one independent voice. One commenter indicated that they were pleased to see an emphasis on the independence of the Office in this proposed language. One commenter indicated that the proposed language is helpful in clarifying that there is only one State Long-Term Care Ombudsman in each State, critical in situations where there are agencies hosting local Ombudsman entities which hire, fire, and supervise the representatives of the Office who must look to the Ombudsman for designation and programmatic guidance.

Response: We appreciate the supportive comments.

Comment: One commenter indicated support for the proposed provisions in this section but indicated that there will be challenges in upholding them at the State level. The commenter indicated that the Ombudsman program benefits from being within the State agency and that the Federal funds appropriated under the Act are not adequate to permit the Office to stand on its own separate and apart from the State agency. The commenter indicated that AoA must increase funding for the Ombudsman program before implementing this rule because moving the Ombudsman out of the State agency would result in loss of State agency resources and access to State general funds to the Ombudsman program.

Response: Nowhere in this rule does AoA require State agencies which operate the Ombudsman program directly to move the Office out of the State agency. In fact, a number of States house the Office within or attached to the State agency and successfully fulfill the functions required by the Act. To the extent that this comment refers to conflicts of interest that may be present within a State agency, we address these comments more fully in the discussion related to § 1327.21, below. AoA is available to provide technical assistance to help States to fully implement the requirements of the Act, regardless of the organizational placement of the Office.

AoA appreciates that many States provide resources to supplement the Ombudsman program. As a result of these States' commitment to this work, residents have improved access to ombudsman services. We fail to see how compliance with this rule would jeopardize any State's ability to support the work of the Ombudsman program.

Comment: One commenter suggested that AoA amend the proposed language in § 1327.13 to read ''The Ombudsman . . . shall have *independent* responsibility for the leadership and management . . . .''

Response: We find the proposed language sufficiently clear. Moreover, depending on the structure of the Ombudsman program, some management tasks (for example, personnel, contracting, bookkeeping, or budgeting processes) may be the primary responsibility of other parts of the agency in which the Office is organizationally located. We do not wish to create confusion by implying that the Ombudsman must perform or oversee all of these functions directly and independently. An Ombudsman may certainly rely on others to perform these important management processes and work cooperatively with others outside of the Office to carry out certain management functions. To require otherwise could require significant time and energy from the Ombudsman and take away from his or her ability to focus on the functions that benefit residents as required by the Act.

Comment: One commenter recommended that we omit the language ''in coordination with the State'' in § 1327.13. The commenter indicated that there is no mention of coordination with the State agency in the list of Ombudsman functions in the Act at section 712(a)(3). In addition, using the word ''coordination'' only prolongs the enmeshing of the Ombudsman and the

Office with the State agency. The commenter contrasted the provision in section 712(a)(5)(B) of the Act related to local Ombudsman entities which are to act ''in accordance with the policies and procedures of the Office and the State agency.''

Response: The Act sets forth a grantee relationship between AoA and the State agency, making the State agency accountable to the AoA for the appropriate establishment and operation of the Ombudsman program. *See* Section 712(a)(1) of the Act. We believe that there must, therefore, be a coordinated relationship between the State agency and the Ombudsman in order for the State agency to be able to fulfill its responsibilities as grantee. We further believe that coordination is only successful if all involved parties take responsibility for its success. Therefore, we believe that coordination with the State agency should be a responsibility of the Ombudsman as well as of the State agency and have not adopted these recommendations.

We have made a revision in the final rule, changing ''State'' to ''State agency'' to clarify that we are specifically referring to the State agency on aging as the AoA grantee. Should coordination with other State agencies be involved in carrying out the program, the rule directs the Ombudsman to coordinate with them as well.

Comment: Two commenters recommended a new provision in § 1327.13 that establishes criteria to be used when selecting a State Ombudsman. One of these commenters indicated a need for strict guidance related to qualifications and conflicts of interest in selecting the Ombudsman.

Response: We have established minimum qualifications for the Ombudsman in a new provision at § 1327.11(d).

Comment: Two commenters recommended that the Ombudsman not be a political appointee.

Response: The Act provides States with significant latitude in how an Ombudsman is selected within a particular State. In AoA's experience, we have not seen, nor have we been presented with evidence of, a correlation between effective Ombudsman programs and the mechanism by which the Ombudsman in that State has been selected or appointed.

While we have not prohibited political appointments in this rule, we do provide for minimum qualifications for the selection of an Ombudsman, in § 1327.11(d), and clarify conflicts of interest considerations relative to the selection process in § 1327.21.

Comment: One commenter recommended that criteria be used when firing an Ombudsman. They indicated that such criteria are the logical extension of the independence and anti-retaliation provisions in the OAA. They further indicated that, since the Act establishes the role of the Ombudsman as a potential critic of facilities and government agencies, if the governor or State agency head could fire the Ombudsman (or terminate the contract with the host agency) whenever they wish, the Ombudsman cannot truly be independent and a voice for residents, as opposed to a cautious appointee.

Response: After careful consideration, we have decided against providing specific criteria regarding the firing of the Ombudsman. We believe that the clarifications provided by this rule related to the operation of the program; organizational and individual conflicts of interest; and freedom from interference, retaliation, and reprisals provide sufficient clarity to protect the Ombudsman from retaliation for performing the duties required by the Act.

The Act specifically provides State agencies with significant latitude in determining whether to operate the program directly (and how to structure the program within or attached to the State agency) or operate it through contract or other agreement with another agency. Therefore, States have appropriately structured a wide variety of organizational placements for the Ombudsman and, as a result, there is wide variation among applicable laws impacting employment, labor, government contracting, and interagency agreements that may apply to the firing of an Ombudsman or the termination of a contract for the operation of the Office. AoA believes that developing criteria regarding firing might create confusion in the context of the wide variety of applicable legal requirements.

However, AoA is aware that a number of employment arrangements and organizational structures have been developed to protect employees within other types of ombudsman programs, inspectors general, and other entities where independent oversight or consumer advocacy are required activities. Therefore, AoA plans to provide States with further guidance and technical assistance regarding employment provisions and structures which they may consider in further strengthening the ability of the Ombudsman to fulfill his or her functions under the Act.

Comment: Ten commenters recommended that the proposed language in § 1327.13(a)(1) be revised to clarify that Ombudsman programs have authority to identify, investigate, and resolve complaints related to the actions, inactions, or decisions of guardians, legal representatives, family members, or other resident representatives. Some indicated that this should be a longer list of people whose actions may adversely impact a resident than merely guardians and representative payees.

Response: We have maintained the statutory structure in the final rule at § 1327.13(a)(1) regarding the types of entities which may be the object of Ombudsman program complaint investigation and resolution. See section 712(a)(3)(A) of the Act. However, we agree with commenters that other types of resident representatives, beyond guardians and representative payees specifically indicated in the Act, should be specifically added to the rule. It is reasonable to include issues related to activities of powers of attorney agents, for example, among the actions that may adversely affect the health, safety, welfare, or rights of residents, consistent with the Congressional examples of guardians and representative payees. Therefore, we have changed the language of this provision to use the term ''resident representative'' which we have defined in the final rule at § 1327.1, incorporating the categories of representatives indicated by the commenters.

Comment: One commenter indicated that the Ombudsman for long-term care facility residents should serve on a full-time basis and solely on behalf of such residents as required in the Act. The commenter questioned the capacity of the one individual to adequately serve as the Ombudsman for both long-term care facility residents and for home care consumers, while noting that these individuals need access to ombudsman services. In addition, the commenter indicated that the Ombudsman program should be funded adequately and fully funded for its current work before it expands into the home setting.

Response: As the commenter correctly notes, the Act provides authority for the Ombudsman program to serve residents living in ''long-term care facilities'' as defined at OAA section 102(35) (*i.e.* nursing facilities, board and care homes, assisted living, and similar adult care facilities.) Congress has not chosen to authorize or fund Ombudsman program services to individuals receiving long-term supports and services in in-home settings or in non-residential settings such as adult day health centers.

States which choose to expand the Ombudsman program to serve individuals in settings beyond those provided for in the OAA are not prohibited from doing so. AoA has no objection to those States which choose to utilize resources other than those appropriated through the OAA to expand ombudsman services to individuals living in a variety of settings or receiving a variety of long-term services and supports. However, absent Congressional authorization for the Ombudsman program to expand its services to new settings, AoA does not believe that it has the authority to provide for such an expansion of service through this rule.

We note that historically Congress changed the title of Nursing Home Ombudsman to Long-Term Care Ombudsman in the 1981 reauthorization of the OAA, expanding the service population to include residents of board and care residents and other similar adult care facilities. Then, in the 2006 reauthorization, Congress clarified that the Ombudsman program service population includes residents of assisted living. However, Congress did not choose on either occasion to create separate ombudsman programs for these populations; instead, it choose to coordinate the efforts so that long-term care facility residents in a variety of residential settings had access to the services of the Long-Term Care Ombudsman program. In addition, AoA has long held that States are not prohibited from using OAA funds to support Ombudsman services to younger residents of long-term care facilities, even though the Act is designed to primarily benefit individuals over age 60. AoA Program Instruction 81–8.

Many of the individuals who would have lived in nursing homes in previous decades now live and receive long-term services and supports in a variety of other settings. Many of the long-term services and supports issues that impact individuals in one long-term care setting relate to individuals receiving services in other settings. Much of the expertise and experience of the Ombudsman and representatives of the Office is relevant to individuals receiving long-term services and supports in a variety of settings. Therefore, we believe there is good reason for a State to support this coordinated approach to serve individuals receiving long-term services and supports, regardless of setting, through the Long-Term Care Ombudsman program.

The discussion regarding an Ombudsman serving on a full-time basis is found above related to § 1327.11(c).

Comments: Two commenters indicated that the scope of complaint investigations indicated in § 1327.13(a)(1) should include complaints regarding a representative of the Ombudsman program.

Response: Section 1327.13(a)(1) describes functions of the Ombudsman program to benefit long-term care facility residents. These complaints are reported to the National Ombudsman Reporting System, and inform AoA, States and other entities regarding issues facing residents and Ombudsman program services to resolve problems for residents. These complaints related to the resident's experience within a long-term care facility are qualitatively different than grievances regarding fulfillment of duties by a representative of the Office.

While we have not revised this provision, we have included, in the final rule, a new provision at § 1327.11(e)(7), to require the establishment of a grievance process within the Ombudsman program so that individuals served by the Ombudsman program have a clear process for filing a grievance, having their concern investigated, and receiving a response to the grievance. We note that some States already have such processes in place.

Comments: Three commenters indicated that the scope of complaint investigations indicated in § 1327.13(a)(1) should include complaints related to interference with a representative of the Ombudsman program. Two commenters indicated that the scope of complaint investigations indicated in § 1327.13(a)(1) should include complaints regarding retaliation against any person who cooperates with the Ombudsman program.

Response: Complaints related to interference with the work of a representative of the Office or to retaliation for cooperating with the Ombudsman program are qualitatively different from the types of resident-related complaints described in § 1327.13(a)(1). We have added provisions related to protection from interference, reprisals and retaliation in § 1327.15(i).

Comment: One commenter suggested that we consider expanding complaint resolution work to include individuals who receive services from home care, hospice and Program for All-Inclusive Care for the Elderly (PACE) programs. Another commenter asked whether individuals who receive such services are included within the list of individuals to be served with complaint resolution services pursuant to § 1327.13(a)(1).

Response: As noted above, the OAA provides authority for the Ombudsman program to serve residents living in ''long-term care facilities'' (*i.e.* nursing facilities, board and care homes, assisted living, and similar adult care facilities). Congress has not chosen to authorize or fund ombudsman services to individuals receiving long-term supports and services in in-home settings or in non-residential settings. Absent authorization for the Ombudsman program to expand its services to new settings, AoA does not believe that it has the authority to provide for such an expansion of service through this rule.

Comment: One commenter suggested clarifying that the Ombudsman function of informing residents about the means of obtaining services does not duplicate work done by other OAA-funded programs or by Aging and Disability Resource Centers (ADRCs).

Response: We agree that the Act's requirement that the Ombudsman inform residents about means of obtaining services does not duplicate the work of other OAA programs, including those providing information and assistance services, defined in section 102(a)(28) of the Act, or ADRCs, defined in section 102(a)(4) of the Act. While we agree with the comment that this provision does not create duplication of services, we do not agree that such an explanation needs to be incorporated into the final rule. However, we have added the ADRC as an entity with which the Ombudsman must coordinate, in the final rule at § 1327.13(h), to enhance collaboration and reduce any risk of duplication.

Comments: Two commenters recommended language to enhance the independence of the Ombudsman in describing the functions in § 1327.13(a).

Response: We believe that we have adequately addressed the independence of the Ombudsman in other provisions of this rule.

Comments: Two commenters suggested incorporation of language in § 1327.13(a)(3), requiring the Ombudsman to inform residents of the services provided by the protection and advocacy system.

Response: As ACL administers funds to States for protection and advocacy systems, we are aware that these systems provide critically important services, as do an array of other entities which are also not mentioned in this provision. We are choosing to retain the broad description in the rule regarding the function of the Ombudsman to ''inform residents about means of obtaining services provided by providers or agencies,'' rather than

singling out any particular entity or service provider. We note that the final rule requires the Ombudsman to coordinate with protection and advocacy systems at § 1327.13(h)(4).

Comments: Three commenters suggested a need for additional guidance or definition of ''regular access'' in § 1327.13(a)(4), indicating that the presence of a representative of the Office in facilities is critical for ensuring resident access, and recommending at least quarterly visits to each facility as a minimum standard.

Response: Currently there is wide variation among States' Ombudsman programs in providing ''regular visits.'' For example, in 2012, Ombudsman programs in 10 States reported regular visits to 100% of all facilities, but, in three States, the Ombudsman program reported making regular visits to fewer than 10% of facilities. ACL, National Ombudsman Reporting System. (Note that, for reporting purposes, AoA asks Ombudsmen to report on the number of facilities that received ''regular visits'' at least once per quarter.)

We encourage Ombudsman programs to provide residents with access to the Ombudsman program through, among other means, regular visits to facilities. However, we believe creating one national minimum standard for visits to facilities would be unrealistic, given the extremely different variables among States. While some in some States, Ombudsman programs are able to make weekly or monthly visits to many facilities because they have the volunteer and/or employee capacity to do so, in other States, Ombudsman programs are unable to make even quarterly visits. Ombudsman programs face significant variables such as program resources (including funding, staff, volunteers), geographic distribution of facilities, geographic distribution of staff and/or volunteers, as well as means of and cost of transportation (while most programs are able to visit facilities using automobiles or public transportation, others must use airplanes or boats to reach some facilities).

Some Ombudsman programs have minimum standards related to frequency of these visits that are responsive to the variables in that State. We strongly encourage development of minimum standards to provide consumers, providers, and others with an expectation of the frequency of regular visits. We note that standards also provide an important mechanism for Ombudsman program accountability. We are available to provide technical assistance regarding development of such standards.

We also encourage Ombudsman programs and States to consider, in developing minimum standards, that providing ''regular access'' requires more than providing visits to facilities by representatives of the Office. Ombudsman programs should be easily accessible to residents, complainants, and others—including individuals with limited English proficiency—because, among other things, they have multiple methods of communication available to the public (such as telephone, email, facsimile, Web site, TTY (text telephone) and other communication services, and mail, as well as in-person visits).

Comments: One commenter suggested the need for a national standard on what constitutes ''timely access'' in § 1327.13(a)(4).

Response: The Act requires the Ombudsman to ensure that residents have timely access to the services of the Office. Section 712(a)(3)(D) of the Act. We interpret this provision to mean that a resident or other individual who reaches out to the Ombudsman program is able to communicate with the program to file a complaint or otherwise make a request in a reasonably prompt manner. Timely access is provided, for example, when the Ombudsman program returns telephone calls or emails in a reasonably prompt manner and a resident request for an in-person discussion with a representative of the Office is met in a reasonably prompt manner.

We believe creating one national minimum standard for timely access would be unrealistic, given the extremely different variables among States, as described in the response to ''regular access,'' above. We note that some States have developed standards related to timely access, such as indicating maximum time frames in which representatives of the Office must return telephone or email messages. We strongly encourage the development of minimum standards to provide consumers, providers and others with an expectation of what constitutes timely access.

We note that the Act and this rule also require that ''residents and complainants receive timely responses from representatives of the Office to complaints,'' distinguished from ''timely access.'' After a resident has received access and the opportunity to file a complaint, the ''timely response'' requirement envisions that a response (for example, initiating a complaint investigation) is done in a reasonably prompt manner. Some States have developed standards of promptness related to complaint response that are responsive to the realities in that State. Again, we strongly encourage the development of minimum standards to provide consumers, providers and others with an expectation of what constitutes a timely response to a complaint.

Comment: Two commenters requested additional clarification of § 1327.13(a)(5) related to the statutory and proposed regulatory language requiring the Ombudsman to ''seek administrative, legal, and other remedies to protect the health, safety, welfare and rights of the residents.'' One of these commenters recommended that AoA add language to clarify that this requirement should include ''representation in administrative fair hearings, before legislative bodies, and on behalf of residents before judicial forums.'' This commenter indicated that this suggested language would clarify that the Ombudsman program would be able to go to court on behalf of a resident.

Response: We agree with the commenters that the term used in the statutory and proposed regulatory language requiring the Ombudsman to ''seek administrative, legal, and other remedies'' would benefit from further clarity. We note that this provision also relates to section 712(g)(2) of the Act which requires that the ''State agency shall ensure that . . . the Office pursues administrative, legal, and other appropriate remedies on behalf of residents.''

In the final rule we have replaced the term ''seek'' in order to clarify that the Ombudsman is required to assure that individual residents have access to and is required to pursue remedies, with a goal of protecting the health, safety, welfare and rights of residents. See § 1327.13(a)(5).

We do not agree with the commenter that the Ombudsman program should be required to provide legal representation of individual residents in administrative fair hearings or before courts. An ombudsman service is first and foremost a conflict resolution service and not a legal service. The primary role of any ombudsman (not only a Long-Term Care Ombudsman) is to investigate and resolve complaints, whether on an individual or systemic level.

While we are aware of a few examples of States which have in-house legal counsel available (or which retain an attorney directly) to represent individual residents, these are exceptional arrangements. More often, Ombudsman programs have developed referral relationships with not-for-profit legal services providers and/or maintain lists of referral options of law offices

with relevant expertise so that they are able to assist residents in accessing appropriate legal representation when needed. We do not intend to prohibit in-house legal counsel representation of individual residents by the Ombudsman program, where a State provides this service, but rather we are acknowledging that this activity is currently the exception among States in their operation of the Ombudsman program. We also do not intend to prohibit a representative of the Office from serving as a spokesperson for a resident in an administrative hearing as provided in 42 CFR 431.206(b)(3).

We have addressed the issue of legal counsel for the Ombudsman program more fully in a new provision at § 1327.15(j) and in the related discussion found below.

Comment: One commenter indicated that most Ombudsman programs are not adequately equipped to undertake the requirement to pursue ''administrative, legal, and other remedies.''

Response: We note that this is not a new requirement, but has long been required by the Act at section 712(a)(3)(D) and (g)(2). Our intent in finalizing this rule is to help provide additional clarity around this expectation. To further clarify the meaning of § 1327.13(a)(5), we provide the following examples of ways States can fulfill this requirement:

1. Ombudsman assures individual resident access to an administrative remedy: A resident receives an involuntary discharge notice that provides a notice of right to a fair hearing. The Ombudsman makes sure the resident knows how to request the hearing and is informed of available supports to make sure his/her interests are represented in the process. The Ombudsman program could, for example, refer the resident to a non-profit legal services program to file the appeal and represent the resident interests at the hearing, or provide in-house legal counsel to represent the resident, and/or provide a representative of the Office to accompany the resident to the hearing as emotional support. Alternatively, a representative of the Office could serve as a spokesperson for a resident in a hearing as provided in 42 CFR 431.206(b)(3).

2. Ombudsman assures individual resident access to a legal remedy: A resident wishes to have a power of attorney revoked to remedy financial exploitation by agent. The Ombudsman could, for example, refer the resident to a non-profit legal services program to provide legal advice to the resident and to execute the revocation of the power of attorney, or provide in-house legal counsel to provide legal advice to the resident and to execute the revocation of the power of attorney, and/or provide protocols to representatives of the Office regarding what actions could be taken directly by the representative consistent with State laws relating to revocations of powers of attorney and avoiding the unauthorized practice of law.

3. Ombudsman pursues an administrative remedy to protect resident interests: The Ombudsman advocates before State-level policy makers to create a fair hearing process where the State that lacks a fair hearing process for involuntary transfer or discharge of nursing home residents (as required in Federal regulation at 42 CFR 431.200 *et seq.*) or for board and care/assisted living residents (as regulated under State law).

4. Ombudsman pursues a legal remedy to protect resident interests: The Ombudsman program serves as the Patient Care Ombudsman in a long-term care facility bankruptcy filing pursuant to the Federal Bankruptcy law.

5. Ombudsman pursues a legal remedy to protect resident interests: The Ombudsman program files a mandamus action against the State, representing the collective interest of residents, to ask a court to require the State to enforce its regulatory requirements related to long-term care facilities.

The above examples are some of the many possible ways that Ombudsman programs can, and currently do, fulfill this requirement. We are available to provide technical assistance to States to assist them in further meeting the requirements of § 1327.13(a)(5).

Comment: One commenter indicated the importance of the language in § 1327.13(a)(5) related to assisting residents who face end-of-life decisions, indicating the important role of the Ombudsman program in assisting residents so that their wishes, as expressed in advance directives, are adhered to.

Response: We appreciate the comment and note that Ombudsman program support for residents related to end-of-life decision-making is yet another example of ways that Ombudsman programs can, and currently do, fulfill the requirements of § 1327.13(a)(5).

Comment: One commenter recommended language defining adequate legal representation in § 1327.13(a)(5).

Response: We have added a new provision related to legal counsel at § 1327.15(j) and have addressed this recommendation in the comments related to that provision below.

Comment: Three commenters suggested that this provision include a requirement for, and/or a reference to, collaboration with the protection and advocacy system. One of these commenters indicated that such collaboration can be an efficient and cost-effective way for the Ombudsman program to meet this mandate.

Response: While we have chosen not to specifically include protection and advocacy systems within this regulatory provision, ACL is committed to continuing to provide training and other support for Ombudsman programs related to appropriate referrals of resident issues to protection and advocacy systems. The final rule requirement for the Ombudsman to coordinate with protection and advocacy systems at § 1327.13(h) further supports this intent.

Comment: Three commenters indicated support for the proposed language of § 1327.13(a)(7). One of the commenters stated that the proposed language makes clear that Ombudsmen have authority for systemic advocacy, indicating that many Ombudsmen are restricted currently from taking systemic advocacy actions (such as communications with legislators, policymakers or the media) at all or without prior approval from the agency in which the Ombudsman is organizationally located.

Response: We appreciate the supportive comments. We note that AoA is creating no additional requirements in this provision. Both the final rule and the proposed language are identical to the language that has long been in the Act. However, it is our hope that the final rule in its entirety will provide the clarity needed to enable Ombudsman programs to more adequately fulfill this function.

Comment: One commenter recommended a separate paragraph be added to the final language of § 1327.13(a)(7) to focus on consumer protection issues.

Response: We believe that consumer protection issues fall within the purview of this provision, which provides for the Ombudsman program to make recommendations, and take other actions related to governmental policies and actions that pertain to ''the health, safety, welfare and rights of residents.'' Therefore, we do not believe that additional language is necessary to provide the Ombudsman program with this authority.

Comment: Five commenters recommended that we add specific guidance regarding training requirements for certified representatives of the Office in the final

rule. Two commenters recommended sub-regulatory guidance related to training requirements. One commenter indicated that budgetary constraints have resulted in inadequate training of representatives of the Office in their State. Without consistent access to quality training, the commenter stated, the Ombudsman program is hampered in its ability to achieve positive outcomes for residents and the Ombudsman is hampered in his or her ability to advocate for resident interests on a policy level.

Response: We appreciate the importance of consistent access to quality training by the Ombudsman and representatives of the Office. In §§ 1327.13(c)(2) and 1327.15(c) of the final rule, we have clarified requirements related to training, including requiring State agencies to provide opportunities for training for the Ombudsman and representatives of the Office in order to maintain expertise to serve as effective advocates for residents. Further, we clarify that State agencies may utilize funds appropriated under Title III and/or Title VII of the Act in order to provide access to such training opportunities.

While AoA has not incorporated training standards into this rule, it intends to develop training standards for the Ombudsman program. In the meantime, we recommend that Ombudsman programs refer to the AoA-funded National Ombudsman Resource Center for training resources and a core curriculum designed for certification training of representatives of the Office.

Comment: Two commenters indicated concern with the use of the term ''citizen organizations.'' They indicated that the word ''citizen'' might mistakenly imply reference to United States citizenship. One of the commenters suggested that the term should be ''consumer organizations'' or ''resident and family organizations.''

Response: We do not interpret the statutory requirement for the Ombudsman to ''promote the development of citizen organizations'' (at section 712(a)(3)(H) of the Act) to imply that the need for participants of such organizations must be determined to be United States citizens. We do not agree that a different term than that provided by Congress is necessary, as the commonly defined use of the word ''citizen'' is not limited to the context of national citizenship. According to the *Merriam Webster Dictionary,* definitions for ''citizen'' include ''an inhabitant of a city or town'' and ''a civilian as distinguished from a specialized servant of the state.'' We believe that ''consumer organizations'' and ''resident and family organizations'' (alternative terms suggested by a commenter) are clearly included within the meaning of the broader term ''citizen organization'' used in the statute and in the final rule at § 1327.13(a)(8).

Comment: Three commenters recommended that we eliminate the words ''to participate in the program; and'' from proposed language at § 1327.13(a)(8)(ii). Two of the commenters indicated that this phrase could be misinterpreted to mean that the Ombudsman only develops or works with citizen organizations which work under the direct control of the Ombudsman program.

Response: While we are unfamiliar with the existence of any citizen organizations which work under the direct control of the Ombudsman program, we agree that this language could lead to confusion. In addition, we read the corresponding language in the Act regarding participation in the program as support for coordination between the Ombudsman program and citizen organizations. Section 712(a)(3)(H) of the Act. Therefore we have revised the language in the final rule to require the Ombudsman to ''[c]oordinate with and promote the development of citizen organizations consistent with the interests of residents.'' § 1327.13(a)(8).

Comment: One commenter indicated that ''citizen organization'' should be inclusive of family councils.

Response: While we agree that the term ''citizen organizations'' could be inclusive of groups consisting of or representing family members, we have not made a change to the final rule. Family councils are more specifically addressed at § 1327.13(a)(9).

Comment: Two commenters recommended that we add the language ''actively promote'' to the provision related to the Ombudsman responsibilities towards resident and family councils. The commenters indicated that some family members do not know what a family council is or how it can be formed and, therefore, need support and encouragement to join or create a family council. Further, the commenters indicate that to require the Ombudsman to ''promote'' family councils would make the Ombudsman work with family councils more consistent with the requirement to ''promote'' citizen organizations.

Response: We agree that it is appropriate for the Ombudsman to be responsible to promote the development of resident and family councils, similar to the requirement to promote citizen organizations, as required by § 1327.13(a)(8). We have made the corresponding amendment at § 1327.13(a)(9).

Comment: Two commenters suggested language regarding Ombudsman duty to ensure the ability of resident and family councils to exercise their rights under Federal law. The commenters indicated that resident and family councils can be fragile entities that need support in the formation period as well as ongoing support.

Response: We agree that Ombudsman program support to resident and family councils can be important to protect councils' rights under Federal law and to enhance their ongoing effectiveness. We believe the final rule adequately describes the Ombudsman responsibility to promote and provide technical support for the development of resident and family councils and is inclusive of Ombudsman program support for resident and family councils in the exercise of the rights provided to them by Federal law. Therefore, we do not see a need to further revise this provision as recommended.

Comment: One commenter recommended adding language to support the maintenance or continuation, not merely the development of, resident and family councils.

Response: We agree with the comment that it is appropriate for the Ombudsman program to be available to provide support to resident and family councils after they have been developed. However, given that resident and family councils should be led by residents and family members, respectively, and that AoA wishes to honor the autonomy of these councils, we indicate, at § 1327.13(a)(9), that this support is to be provided as requested by the council.

Comment: One commenter requested that we add a definition of family council to include past family members and that we provide reference to the Centers for Medicare and Medicaid Services (CMS) regulations regarding ''family groups.''

Response: Terms such as ''family councils'' and ''family groups'' may be defined by relevant State licensure regulations governing long-term care facilities. CMS regulations governing nursing facilities set out various rights for ''resident groups'' and ''family groups'' in such facilities, which are set out at 42 CFR 483.15(c). *See also* CMS Pub. 100–01, State Operations Manual, Appendix PP. Our intent in this rule is to clarify AoA's expectation of the Ombudsman program where such family councils or family groups exist, regardless of how they are defined by

the laws or regulations governing facilities.

Comment: One commenter recommended that someone from the Ombudsman program should speak to all family members and residents at an annual event focused on increasing awareness of resident and family councils and how they affect quality of care.

Response: We believe that the final rule permits this strategy within the Ombudsman function to ''promote, provide technical support for the development of, and provide ongoing support as requested by resident and family councils.'' § 1327.13(a)(9). However, we do not believe it is advisable for AoA to specify which strategies an Ombudsman should pursue to fulfill this function. This may be a very successful strategy, but there may be other strategies that an Ombudsman may wish to employ.

Comment: Seven commenters indicated support for the proposed language in § 1327.13(b) requiring that the Ombudsman ''oversee a unified statewide program.'' One of these commenters indicated that this language is important to ensure effective, efficient, and consistent Ombudsman services throughout the country. Two of these commenters indicated that the proposed language clarifies that representatives of the Office are accountable to the Ombudsman regarding Ombudsman program duties; providing clarity for representatives of Office and local Ombudsman entities. Another commenter indicated that the proposed language recognizes the need for coordination and unity among operations at state and local levels, with the Ombudsman as the leader of the coordinated effort.

Response: We appreciate the supportive comments.

Comment: One commenter recommended that we add language indicating that representatives of the Office shall act ''in accordance with the policy and procedures of the Office and the State agency'' as set forth in Section 712(a)(5)(B) of the Act.

Response: The provisions of § 1327.13 specifically focus on the functions of the Ombudsman. The duties of the representatives of the Office are enumerated in § 1327.19. The recommended language is found at § 1327.19(a).

Comment: Twelve commenters indicated support for the proposed language in § 1327.13(c) regarding the Ombudsman responsibility for designation and de-designation of local Ombudsman entities and representatives of the Office. One of the commenters described the proposed language as an accurate and logical interpretation of the Ombudsman's authority, indicating that the authority to de-designate is the only logical reading of the Ombudsman's authority to designate a representative, and comparing this to the understanding that informed consent includes the right to say no (*i.e.* informed refusal). This commenter went on to say that, if another entity had the authority to de-designate an Ombudsman representative, then the Ombudsman would no longer be able to designate that individual, which is clearly contrary to the Act.

Another commenter indicated that the proposed language clarifies that the Ombudsman can de-designate a representative of the Office who may not be appropriate for the role. Two commenters indicated support for the clarification that the Ombudsman has the sole authority to designate and de-designate representatives of the Office since the Act does not clearly indicate where authority for de-designation resides and indicated that the clarification will significantly improve the ability of the Ombudsman to meet program requirements. One commenter described the proposed language as an important clarification, essential to ensure the strength and integrity of the program.

Response: We appreciate the supportive comments.

Comment: One commenter asked whether this provision permits the Ombudsman to override the decision of an AAA to terminate an employee. Another commenter indicated concerns regarding lines of responsibility since, in the commenter's State, representatives of the Office are employees of AAAs who provide direct oversight and monitoring of their employees.

Response: This provision is not intended to provide the Ombudsman with authority to override a personnel decision made by any other entity. However, we do expect that Ombudsmen who designate AAAs or other entities to operate as local Ombudsman entities have procedures in place to clearly delineate how the Ombudsman responsibilities to designate, or to refuse, suspend or remove designation of, representatives of the Office are coordinated with the personnel decisions of the agency hosting the local Ombudsman entity. A number of States have developed procedures to address this question, and we are available to provide States with technical assistance as needed.

Comment: Four commenters suggested that the Ombudsman be required to have policies, protocols, and/or criteria in place regarding designation and de-designation actions to which the Ombudsman should be held accountable.

Response: We have adopted this recommendation by adding a new provision to § 1327.11(e)(6) requiring procedures which set forth the criteria and process implementing the Ombudsman responsibility to designate, or to refuse, suspend or remove designation, of representatives of the Office and local Ombudsman entities. We recognize that many States already have such procedures in place. In addition, the grievance process required by § 1327.11(e)(7) can be utilized by any individual or entity with reason to believe that the procedures were not adhered to by the Ombudsman.

Comment: One commenter recommended that we add definition or guidance regarding the term ''designation'' and that we distinguish between the term ''designation'' and the term ''certification.''

Response: We do not agree that a definition of ''designation'' is needed, as we believe the commonly defined use of these terms is sufficient to explain their use. According to the *Merriam Webster Dictionary,* to ''certify'' means ''to say officially that something or someone has met certain standards or requirements'' and ''designation'' means ''appointment to or selection for an office, post, or service.''

Comment: One commenter recommended that we add to § 1327.13(c) language clarifying that the local Ombudsman entity must be a public or non-profit private entity as required by section 712(a)(5) of the Act.

Response: We believe this recommendation adds additional clarity consistent with the Act and have made the recommended revision.

Comment: One commenter recommended that we include the word ''independently'' to describe the designation authority of the Ombudsman.

Response: We believe that the final rule is sufficiently clear that the Ombudsman has sole authority for designation and de-designation of local Ombudsman entities and representatives of the Office.

Comment: Two commenters recommended the need for a fair hearing process or appeal procedures for situations in which a representative of the Office is de-designated for good faith performance of their duties. One of these commenters recommended that representatives of the Office should

have an opportunity to appeal to AoA or that appeals be heard by an independent entity mutually selected by parties to the appeal.

Response: We have added a requirement that Ombudsman program policies include the criteria and process for de-designation at § 1327.11(e)(6). In addition, we have added a grievance process requirement in § 1327.11(e)(7) to address situations where an opportunity for review of an Ombudsman action or determination is warranted. Given that the Ombudsman has the sole authority responsibilities to designate, or to refuse, suspend or remove designation, of representatives of the Office, we do not agree that it is appropriate for AoA or another entity to override the designation decisions of the Ombudsman. However, we do believe that it is appropriate for there to be a process in which another entity or person reviews the grievance and makes recommendations to the Ombudsman for his or her re-consideration related to his or her decision to designate, or to refuse, suspend or remove designation.

Comment: One commenter indicated that in their State, Ombudsman program volunteers are appointed by county commissioners, not designated by the Ombudsman. As a result, when a volunteer does not appropriately perform programmatic duties, the appointing authority—and not the Ombudsman—has the only authority to remove the volunteer from this role.

Response: We appreciate the commenter bringing this issue to our attention in the comment. The Act is clear that the Ombudsman has the authority to designate representatives of the Office. OAA section 712(a)(5). Further, this rule clarifies that the Ombudsman has the sole authority to designate and to refuse, suspend or remove designation, of representatives of the Office. § 1327.13(c). AoA plans to assist to States in coming into compliance with this rule.

Comment: Six commenters indicated support for the proposed language related to Ombudsman approval of local Ombudsman entity plans or contracts related to Ombudsman program operations in § 1327.13(d). One of these commenters indicated that this provision is critical in establishing a clear understanding among all parties regarding expectations of the local Ombudsman entities. Another indicated strong support, saying that the Ombudsman needs this authority to coordinate an effective program. Another indicated that the proposed language is critical in order to manage a unified statewide program. One commenter appreciated that the proposed language recognizes and supports meaningful input of Ombudsmen into area plans on aging as they relate to Ombudsman services.

Response: We appreciate the supportive comments and note that the relevant provisions are in newly numbered § 1327.13(c).

Comment: Two commenters recommended the removal of the parenthetical ''(in coordination with the State agency)'' in § 1327.13(d) in order to bolster the Ombudsman's autonomy. The commenters indicated that the Ombudsman must have final right of approval for any Ombudsman program plans, contracts, or other agreements.

Response: We disagree with this recommendation. The OAA establishes the Ombudsman program through grants to State units on aging. The most common model used in States is where the State agency directly operates the Office of the State Long-Term Care Ombudsman and contracts with AAAs for an array of services, including, but not limited to, operation of a local Ombudsman entity. In fact, the Act utilizes this aging network structure as the basis for the vast majority of programs and services provided through the Act.

Although the Act specifically provides the option for the State agency to determine where the Office is to be organizationally located, there is no prohibition from using the aging network structure to also operate the Ombudsman program at state and local levels. Further, there is no prohibition from incorporating the Ombudsman program allocations and requirements into the standard contracts between the State agency and the AAAs, nor a prohibition from incorporating Ombudsman program activities into the area plans on aging of AAAs.

When this model is utilized, close coordination between the Ombudsman and the State agency is absolutely critical to its success. There must be parallel and coordinated processes so that the Ombudsman retains the statutory ability to designate (or refuse, suspend, or remove designation of) AAAs or their subcontractors as local Ombudsman entities and employees and volunteers of AAAs or their subcontractors as representatives of the Office. Simultaneously, the State agency must retain its ability fulfill all of its duties under the Act and applicable State law.

Comment: One commenter recommended that representatives of the Office be consulted in the development of all Ombudsman program-related policies, procedures, positions and reports, including establishment of area plans.

Response: We agree that consultation with representatives of the Office can add significant value to the development of program-related policies and procedures. Therefore, we have incorporated a revision to § 1327.11(e) which requires the Ombudsman or State agency, in developing policies and procedures, to consult with the representatives of the Office.

We disagree with the recommendation to require the Ombudsman to consult with representatives of the Office for all positions and reports. Instead, we believe the benefit of such consultation should be left to the discretion of the Ombudsman or to relevant Ombudsman program policies and procedures.

With respect to area plans, the final rule requires that, where applicable, the State agency shall require inclusion of goals and objectives of local Ombudsman entities into area plans on aging. § 1327.15(g)

Comment: One commenter indicated that the proposed language would result in a cumbersome process related to area plan approval.

Response: We are aware of a number of States which have successfully developed procedures that provide for Ombudsman review and approval of area plans as they relate to Ombudsman program operations. We are available to provide States with technical assistance as needed to implement this provision.

Comment: One commenter indicated that the proposed language could be interpreted to require the Ombudsman to review every contract to which the local Ombudsman entity is a party, which would be a waste of resources.

Response: Our intent is to provide the Ombudsman with the opportunity to review and approve those plans or contracts which establish the local Ombudsman entity and provide parameters governing the operation of the Ombudsman program, but not to require the Ombudsman to review every contract to which the agency hosting the local Ombudsman entity is a party.

To clarify this intent, we have revised § 1327.13(c) to indicate that this requirement only applies to those contracts which govern the local Ombudsman program. We have also clarified through a new § 1327.17, and in other places in the final rule, that the agency hosting a local Ombudsman entity is not the same as the local Ombudsman entity but rather is the agency in which the local Ombudsman entity is organizationally located.

Comment: Four commenters indicated support for the proposed language in

§ 1327.13(e) related to management of the information of the Office. One of these commenters called the proposed language a welcome clarification. One commenter indicated that the provision is consistent with the Ombudsman's responsibilities of disclosure of information and of statewide operation of the Ombudsman program. The commenter also noted that this provision ensures consistency with access to information should there be an agency change at the State level or changes in local Ombudsman entities. One of these commenters indicated that this clarification should eliminate current frictions and confusion regarding ownership and locus of decision-making with respect to record release in the Ombudsman program.

Response: We appreciate the supportive comments.

Comment: One commenter suggested that we add the language ''files and information'' in the last sentence of this provision.

Response: We have added language to clarify that newly numbered § 1327.13(d) refers to ''files, records, and other information.''

Comment: One commenter recommended that we clarify that it is permissible for the local Ombudsman entity to retain physical records if done securely. One commenter indicated that the information should be the property of the Office of the Ombudsman, including the representative of the Office. Another commenter indicated that the proposed language erodes the independence and integrity of local Ombudsman entities, sending a sign that local Ombudsman entities are not trusted to perform basic ombudsman functions, such as maintaining records. The commenter indicated that this approach is likely to be divisive and harmful in some States.

Response: We have added language indicating that nothing in this provision shall prohibit a local Ombudsman entity from maintaining such information in accordance with Ombudsman program requirements. This provision is intended neither to indicate a lack of trust in local Ombudsman entities nor to indicate that they are prohibited from maintaining records. On the contrary, we anticipate that most, if not all, Ombudsmen, will make no change regarding the ability of local Ombudsman entities to physically maintain Ombudsman program information as a result of this rule.

We believe that, ultimately, the Ombudsman must be held responsible for the management of Ombudsman program information. Otherwise, the Ombudsman might lack sufficient access to records to meet the requirement to determine disclosure of Ombudsman program information. Section 712(d)(2)(A) of the Act. In addition, if the Ombudsman should determine that a local Ombudsman entity should no longer be designated, he or she might have difficulty retrieving necessary information in order to provide continued services to residents.

Comment: One commenter indicated concern about additional security needed to ensure protection of confidential information and requested clarification on record retention requirements.

Response: We do not anticipate that additional security, beyond that already required to meet the requirements of the Act, is required by this rule. As a reminder, this rule does not require the Ombudsman to physically maintain the program files and records. Nothing prohibits the Ombudsman from delegating that responsibility to representatives of the Office or to local Ombudsman entities as is done currently in many Ombudsman programs.

Similarly, we do not anticipate any change in record retention requirements. The Federal requirements related to retention of records maintained pursuant to HHS grants apply to records retention of the Ombudsman program. While there are some exceptions, in general, grants recipients and their sub-awardees must retain financial and programmatic records, supporting documents, statistical records, and all other records that are required by the terms of a grant, or may reasonably be considered pertinent to a grant, for a period of 3 years from the date the final Financial Status Report is submitted by States to HHS. *See* 45 CFR 75.361. This Federal grant requirement does not prohibit a State agency, the Office, and/or a local Ombudsman entity from establishing record retention policies which provide for longer retention periods than the Federal requirements.

Comment: Two commenters indicated support for the proposed language at § 1327.13(f) regarding responses to requests for disclosure of information. One of these commenters indicated that the provision is important because it covers records and files regardless of format and because it applies to all funding sources for the Ombudsman program.

Response: We appreciate the supportive comments and note that this provision is at newly numbered § 1327.13(e).

Comment: One commenter suggested adding a provision encouraging Ombudsman programs to share non-confidential information with advocacy organizations and identifying information from a complainant with complainant permission.

Response: We do not agree that AoA should encourage Ombudsman programs to share information with any particular type of entity. We believe the Act leaves that determination up to the Ombudsman where it does not otherwise prohibit the disclosure of resident-identifying information. The circumstances under which the Ombudsman program is permitted to disclose resident-identifying information with any outside entity is more fully described in § 1327.11(e)(3).

Comment: One commenter indicated a need for further clarification that the Ombudsman is solely responsible for making decisions concerning disclosure.

Response: We believe that the Act at section 712(d) does indicate that the Ombudsman has sole authority to make such determinations. We have amended § 1327.13(e) to further clarify this authority in the final rule.

Comment: One commenter indicated support for the proposed language at § 1327.13(g).

Response: We appreciate the supportive comment and note that this provision is at newly numbered § 1327.13(b)(1).

Comment: Nine commenters disagreed with proposed language at § 1327.13(g) and indicated that the Ombudsman, not the State agency, should be responsible for developing policies, procedures, and standards, regarding the administration of the Ombudsman program, rather than merely proposing them to the State agency. Five of these commenters indicated that the Office should develop the policies, procedures and standards and then consult with the State agency or seek State agency review to ensure consistency with the Act. One of these commenters described the proposed language as potentially dangerous, particularly where the Ombudsman program is organizationally located in a State government agency other than the State unit on aging. One commenter indicated that the proposed language should be amended to indicate that the Ombudsman shall ''independently'' propose policies, etc.

Response: We have amended this provision to provide for the Ombudsman to ''establish or recommend'' policies, procedures, and standards. In addition, a new provision at § 1327.11(e) more fully describes the process and responsibility for

establishing policies, procedures, and standards for the Ombudsman program.

Comment: Two commenters recommended that policies should be developed in consultation with representatives of the Office who work at local Ombudsman entities. One of these commenters indicated that, since representatives of the Office deal daily with complaints, they can strengthen policies and provide valuable insight.

Response: We agree with the comments and have incorporated consultation with representatives of the Office and local Ombudsman entities as part of the required process of establishing policies and procedures in a new provision at § 1327.11(e).

Comment: One commenter indicated support for the proposed language at § 1327.13(h).

Response: We appreciate the supportive comment and note that this provision is at newly numbered § 1327.13(a)(7)(iv).

Comment: Four commenters suggested language to enhance coordination of advocacy efforts with representatives of the Office, indicating that accountability for the positions of the Office lies with the Ombudsman, consistent with § 1327.13(b) which provides for the representatives of the Office to report to the Ombudsman regarding Ombudsman program functions and duties.

Response: We have accepted this recommendation by adding the language ''including coordination of systems advocacy efforts carried out by representatives of the Office'' to the functions of the Ombudsman set forth at § 1327.13(a)(7)(iv).

Comment: One commenter indicated that the proposed language should be amended to indicate that the Ombudsman shall ''independently'' provide leadership to statewide advocacy efforts.

Response: We believe that this provision, along with the provision regarding the Ombudsman independently making determinations and establishing positions at § 1327.11(e)(5) and (8), sufficiently describe the independence of the Ombudsman related to policy advocacy.

Comment: Seven commenters indicated support for the proposed language regarding Ombudsman management of fiscal resources at § 1327.13(i). One of these commenters indicated that the provision is important to the Ombudsman's effective leadership of the Ombudsman program. One of the commenters noted that this provision is consistent with the 1995 Institute of Medicine recommendation that, without fiscal control, the Office cannot adequately manage the statewide program.

Response: We appreciate the supportive comment and note that this provision is at newly numbered § 1327.13(f).

Comment: Two commenters recommended that the Ombudsman should determine the use of, or approve allocation of, funds to local Ombudsman entities at § 1327.13(i).

Response: The suggested language helps clarify our intent, so we have accepted the recommendation at § 1327.13(f).

Comment: One commenter suggested language that would clarify that the Ombudsman should determine that ''program expenditures of the Office and local Ombudsman entities are consistent with policies established by the Office'' at § 1327.13(i).

Response: The suggested language helps clarify our intent, so we have accepted the recommendation at § 1327.13(f).

Comment: One commenter recommended that the rule at § 1327.13(i) not prohibit the ability of the Office or local Ombudsman entities from seeking additional funds to support the Ombudsman program.

Response: We agree with the comment, but we do not read the proposed language, nor that of the final rule at § 1327.13(f), to prohibit fundraising efforts. We do note, however, that fundraising efforts need to be consistent with the policies and procedures established by the Office. For example, the Office might appropriately have a policy prohibiting the receipt of funds from a source that would pose a conflict of interest to the local Ombudsman program.

Comment: Three commenters requested additional clarification on the extent of Ombudsman involvement in fiscal monitoring of local Ombudsman entities anticipated by the proposed provision at § 1327.13(i). One commenter recommended that we require transparency in the management of the financial resources of the Office, including of local Ombudsman programs.

Response: We believe that the organizational location of the Office as well as the nature of the relationship between the Office and the local Ombudsman entities will determine whether the Ombudsman should be responsible for fiscal monitoring of local Ombudsman entities. Depending on the organizational structure used to host the Office and local Ombudsman entities, the State agency or other agency may be most appropriately responsible for fiscal monitoring of area agencies on aging or other agencies hosting local Ombudsman entities.

Rather than make one approach that may not adequately cover all States' organizational structures, we have clarified in § 1327.13(f) that the unique Ombudsman responsibility, regardless of organizational structure, is to determine that program budgets and expenditures of the Office and local Ombudsman entities are consistent with policies and procedures established by the Office. In order to assure that the Ombudsman has access to the information needed to perform this function, we have amended § 1327.15(b) to require the State agency to assure that the Ombudsman has access to information needed to perform required functions and responsibilities.

We encourage the Ombudsman to be involved in the fiscal monitoring of local Ombudsman entities. Where applicable, we encourage the State agency or other entity in which the Office is organizationally located to provide opportunities to the Ombudsman to be involved in its fiscal monitoring activities related to agencies hosting local Ombudsman entities.

Comment: Three commenters did not support the provision at § 1327.13(i), indicating that the proposed language fails to address the issue of a representative of the Office's access to financial information related to the local Ombudsman entity. These commenters recommended that local Ombudsman entities should have fiscal oversight over their allocated funds or control over their own finances. One commenter recommended that we require transparency in the management of the financial resources of the Office, including of local Ombudsman programs. One commenter suggested that the provision require the Ombudsman to work in consultation with representatives of the Office and local Ombudsman entities in developing the fiscal determinations.

Response: We believe that the revisions made in the final rule at § 1327.13(f) adequately clarify the responsibility of the Ombudsman. In addition, we require that the policies and procedures of the Office should clarify for the local Ombudsman entity, among other things, the appropriate fiscal responsibilities and/or access to financial information at § 1327.11(e)(1)(vi).

Comment: One commenter suggested addition of language at § 1327.13(i) that clarifies the authority and autonomy of the Ombudsman to determine the use of fiscal resources. The commenter indicated that, given State budgetary constraints, the Ombudsman may be at

the mercy of the State agency for fiscal resources required to operate an effective Ombudsman program.

Response: We agree that budgetary constraints (at any level, not only due to State budget constraints) can limit the ability of the Ombudsman program to have sufficient fiscal resources required to operate an effective Ombudsman program. However, we do not intend to suggest in this provision that the Ombudsman has the authority to appropriate funds (which is the duty of Congress at the Federal level and State legislatures at the State level). Therefore, in this provision, we intend to clarify that the Ombudsman is to have the authority to make fiscal determinations regarding those funds available to the Ombudsman program.

We also note that it is appropriate for the Ombudsman to work with the State agency and other potential sources of funding to explain Ombudsman program resource needs and to seek ways to maximize resources available to operate the Ombudsman program.

Comment: One commenter recommended that we use a word other than ''designated'' when referring to funds, given that the term ''designated'' has a specialized meaning in the context of designating local Ombudsman entities and representatives of the Office.

Response: We have made a change in the wording at § 1327.13(f) to reflect this comment, intending to avoid confusion around the meaning of the term ''designated.''

Comment: Two commenters asked whether this provision will apply to funds raised locally. One of the commenters indicated that, while local fundraising should not be discouraged, it should be clarified what level of control the Ombudsman should have over locally raised funds. The other commenter recommended that the provision state that the Ombudsman should have control over only those funds allocated by the State agency, and not to funding for local Ombudsman entities. This commenter indicated that it would be inappropriate to give the Ombudsman control over funds raised locally to support the work of the local Ombudsman entity.

Response: The Ombudsman is responsible with respect to fiscal management, as described in the final rule at § 1327.13(f), for: (a) Determining the use of the fiscal resources appropriated or otherwise available for the operation of the Office, (b) where local Ombudsman entities are designated, approving the allocations of Federal and State funds provided to such entities, and (c) determining that program expenditures of the Office and local Ombudsman entities are consistent with policies and procedures established by the Office. We do not believe that this language limits the ability of local Ombudsman entities to seek diversified funding or other resources to support the operations of the Ombudsman program at the local or regional level.

Comment: One commenter recommended that we include the word ''independently'' to describe the fiscal determinations of the Ombudsman at § 1327.13(i).

Response: Depending on the organizational structure of the agency in which the Ombudsman is hosted, fiscal management may necessarily be coordinated with the State agency or other agency or non-profit entity in which the Ombudsman is located. We are not convinced that the term ''independently'' would therefore be appropriate in this provision. While we intend to signal here that the Ombudsman should make determinations, including fiscal determinations regarding available funds, related to Ombudsman programmatic priorities, we are aware that the Ombudsman program is often one part of a larger entity with multiple services and programs that may manage the fiscal duties of the entity. We do not intend to suggest that the Ombudsman must independently perform all of these fiscal duties, which could include budgeting, tracking of expenditures, fiscal reporting to funders, responses to auditors, etc.

Comment: Four commenters indicated support for the proposed language in § 1327.13(j). One of these commenters indicated that the proposed language will strengthen the integrity of the program. Another indicated that monitoring is essential to a unified and effective statewide program. Another indicated that the proposed language would strengthen accountability.

Response: We appreciate the supportive comments and note that this provision is found in the final rule at § 1327.13(c)(1)(iii), related to designation of local Ombudsman entities.

Comment: Two commenters suggested that monitoring, as required in § 1327.13(j), should occur on a regular basis.

Response: We agree that monitoring cannot be a one-time occurrence but should be on-going; therefore we have adopted this recommended language that monitoring be on a ''regular basis'' at the final rule at § 1327.13(c)(1)(iii).

Comment: One commenter recommended an added requirement, in § 1327.13(j), that the Ombudsman consult with the local supervisor of the Ombudsman representative when determining performance.

Response: We agree that this approach is an important practice where it is applicable. Since the applicability of an Ombudsman consulting with others, such as area agency on aging directors, who may have responsibility for personnel supervision of a representative of the Office, depends upon the organizational structure of local Ombudsman entities, we believe that State agencies and Ombudsmen can most appropriately address this practice through State-specific policies and procedures. We plan to also promote this type of coordination in monitoring practices through technical assistance to States and Ombudsmen.

Comment: One commenter indicated that the proposed language should be amended to indicate that the Ombudsman shall ''independently'' develop and provide final approval of an annual report at § 1327.13(k).

Response: We have accepted this recommended change at § 1327.13(g). We are aware of circumstances in some States in which questions have arisen regarding the process by which this report is to be developed. Since the Act specifically requires this report and requires it to include some content which would be necessarily determined by the Ombudsman (*e.g.,* evaluation of problems experienced by and complaints made by or on behalf of residents; providing relevant policy, regulatory, and legislative recommendations), we believe it is consistent with the Act that the Ombudsman, as head of the Office, be responsible to independently develop and approve the content of this report. *See* section 712(h)(1) of the Act.

Comment: Three commenters indicated support for the proposed language in § 1327.13(l). One of these commenters indicated that this provision will help establish clear lines of communication and education among programs and services. Another indicated that the proposed language effectively describes the critical and unique dynamic between the Office and the State agency, maintaining separation yet coordinating closely on the State's elder rights agenda.

Response: We appreciate the supportive comments and note that the applicable provisions are in the final rule at § 1327.13(h).

Comment: Three commenters indicated that the proposed language is unclear. Two of the commenters questioned whether AoA is requiring a new, additional responsibility with

respect to other programs and with no resources. Since the Act already requires the State agency to coordinate programs for vulnerable adults, the commenter indicated that this responsibility is more appropriate for the State agency than the Ombudsman. Another commenter indicated that the proposed language is unclear whether the expectation for the Ombudsman to lead the statewide coordination or to lead the Ombudsman program-specific portion of that effort.

Response: This provision is not intended to require a new undertaking of the Ombudsman, nor is it intended to detract from the State agency leadership role with respect to elder rights activities as set forth in section 721(d) of the Act. We have, therefore, revised this provision in order to further clarify our intent to implement the provisions of the Act which require coordination of Ombudsman program services with protection and advocacy networks, legal assistance programs, law enforcement agencies and courts of competent jurisdiction, as well as other entities with responsibilities which relate to the health, safety, welfare, or rights of residents of long-term care facilities. See section 712(h)(6)–(8) of the Act.

AoA's intent in this provision is for the Ombudsman to lead the coordination at the state level between the activities of the Ombudsman program and of the enumerated entities, not to be responsible for the statewide leadership of broader elder rights coordination, which is more appropriately the role of the State agency. We have revised language in the final rule at §§ 1327.13(h); 1327.15(h), and (k)(5) to reflect this intent.

Comment: One commenter suggested language to clarify that memoranda of understanding should not be limited to the coordination between the Office and the legal assistance developer and legal assistance programs as indicated in proposed language at § 1327.13(l)(8).

Response: We have adopted the recommended language at § 1327.13(h).

Comment: Three commenters recommended that we use alternate language, rather than the language used in the Act at section 712(h)(6) for the reference to the protection and advocacy system in § 1327.13(l)(3). The commenters indicated that the proposed language is more descriptive and clear since the network serves people with all types of disabilities, not only individuals with developmental disabilities or mental illness that are referenced in the statutory references.

Response: We have worked with the Administration for Intellectual and Developmental Disabilities to revise the description of ''protection and advocacy system'' in the final rule at § 1327.13(h)(4).

Comment: One commenter recommended that the final rule expressly acknowledge the existing relationship between protection and advocacy systems and Ombudsman program and should reflect the reality that the leadership of the coordination effort may lie in other entities.

Response: We acknowledge and appreciate the existing coordination between many States' Ombudsman programs and protection and advocacy systems, as well as Ombudsman program coordination with the other entities listed in this provision. This provision is not intended to imply that such coordination does not exist, but rather to reflect the statutory requirement as well as to reinforce that such coordination is absolutely critical to the well-being of residents served by the respective entities. It is, therefore, an AoA expectation of the Ombudsman in every State.

We also acknowledge and appreciate that the leadership for such coordination could happen in a variety of ways. Our intent in this provision is to indicate that the Ombudsman is responsible for providing state-level leadership within the statewide Ombudsman program, but not that the Ombudsman is to exclusively provide leadership across all of the entities in this coordinated effort, nor that this duty is to exclude leadership opportunities at the local or regional level of local Ombudsman entities.

Comment: Two commenters requested that we add a duty of the Ombudsman to investigate allegations of inappropriate conduct by a representative of the Office.

Response: We agree that this is should be the responsibility of an Ombudsman and inherent his or her duty to designate representatives of the Office. We have therefore added a provision reflecting this duty at a new § 1327.13(c)(4). We also address the policies governing grievance processes at a new § 1327.11(e)(7).

Comment: One commenter recommended that we add protections that provide due process through a third party formal appeals process if representative of the Office faces de-designation.

Response: We address this comment in a new provision regarding grievance processes at § 1327.11(e)(7).

E. State Agency Responsibilities Related to the Ombudsman Program (§ 1327.15)

In § 1327.15, AoA provides clarification regarding the State unit on aging (State agency) and its responsibilities as OAA grantee in relation to the Long-Term Care Ombudsman Program.

Comment: Four commenters indicated general support for the proposed provision at § 1327.15. One indicated that the proposed language provided welcome clarifications.

Response: We appreciate the supportive comments.

Comment: One commenter indicated that they foresee challenges in implementing the proposed rule as there are several policies and protocols in place that would prohibit their State agency from meeting several of the requirements indicated in § 1327.15.

Response: The Act is clear on a number of these requirements of the State agency which are incorporated into this rule. It is our intent to further clarify these requirements. AoA plans to provide technical assistance to States regarding compliance with this rule.

Comment: One commenter indicated that the proposed language could have unintended consequences for Ombudsman programs located outside of the State agency. The commenter recommended language to clarify that the State's responsibility is to ensure that the Ombudsman program has the resources necessary to meet the requirements of the Act and conforms to Federal and State law.

Response: We have adopted the recommendation to add language in § 1327.15(a) regarding the State agency duty to ensure that the Office complies with the relevant provisions of the Act and of this rule.

Comment: Two commenters recommended that we add clarifying language in § 1327.15(a)(1) to ensure the independence of the Ombudsman program.

Response: We believe that the rule in its entirety supports the operation of the Office as a distinct entity and the ability of the Ombudsman to make independent determinations. Therefore, we do not believe that additional language regarding independence is necessary in § 1327.15.

Comment: One commenter suggested that where conflict of interest exists, the State agency should assist the Office in identifying and remedying the conflict.

Response: We believe we have adequately described responsibilities of the State agency and the Office related to conflict of interest in § 1327.19 of the final rule.

Comment: In commenting on the definitions section, § 1327.1, one commenter recommended that we define ''State agency.''

Response: While we have not incorporated a definition within the final rule, we have added a cross-reference to part 1321 to clarify that references to the State agency found in part 1321 also apply to those references in part 1327.

Comment: One commenter suggested that the language should be amended to indicate that ''[t]he State agency shall require the Office to'' perform the enumerated duties in § 1327.15(c).

Response: Our intent in § 1327.15 is to describe the responsibilities of the State agency. The functions and responsibilities of the Ombudsman are enumerated in § 1327.13. To further clarify this intent and with a goal of reducing confusion regarding which entity is responsible for which duty, we have reduced the level of detail for the Ombudsman responsibilities, which the Act requires the State agency to ensure (section 712(h) of the Act). These provisions are now found at § 1327.15(k). We have moved many of the more detailed provisions that had been in § 1327.15(c) to § 1327.13, in order to clarify that these are responsibilities of the Ombudsman to perform through the Office, and not of the State agency.

In addition, we believe the responsibility of the State agency, at § 1327.15(b), to ensure that the Ombudsman program has sufficient authority and access to information needed to fully perform all of the functions, responsibilities, and duties enumerated in the rule, sufficiently describes the State agency responsibilities related to these provisions.

Comment: Twelve commenters recommended revisions to proposed language § 1327.15(a)(2), recommending that the Ombudsman, rather than the State agency, should have primary responsibility for (or, at a minimum, the Ombudsman should have enhanced participation in) developing the policies, procedures, and standards of the Ombudsman program. One of the commenters indicated that if the State agency establishes the policies and procedures, the autonomy of the Ombudsman and of local Ombudsman entities would be at risk. Two commenters indicated that this provision is in direct contravention of the independence of the Office. One commenter indicated that it would be more realistic and effective if the Ombudsman would be primarily responsible for the development of policies and procedures. One of the commenters indicated that, where the Ombudsman is organizationally located in another State agency, for the State unit on aging to dictate the policies of another State agency would be problematic and potentially dangerous.

Response: The final rule at § 1327.11(e) more fully describes the process and responsibility for establishing policies, procedures, and standards for the Ombudsman program.

Comment: One commenter recommended that we change the format of subparagraph § 1327.15(a)(2) to make the language more readable.

Response: We have adopted this recommendation within the new provision at paragraph § 1327.11(e).

Comment: Two commenters indicated support for the proposed language in § 1327.15(a)(2)(i) requiring policies related to Ombudsman monitoring of local Ombudsman entities.

Response: We appreciate the supportive comments and note that we have moved the relevant provision in the final rule to § 1327.11(e)(1)(iii).

Comment: One commenter requested that we add the descriptor ''periodically'' to indicate that monitoring in § 1327.15(a)(2)(i) should be on-going.

Response: We believe that the final rule at § 1327.11(e)(1)(iii) is adequate.

Comment: One commenter recommended the development of a fair hearing process, indicating that, when representatives of the Office are employees of agencies hosting local Ombudsman entities, there is risk of conflict of interest or willful interference, and that employees may be caught between following policies of their employer and those of the Ombudsman.

Response: We have addressed the requirement for a grievance process in § 1327.11(e)(7).

Comment: Three commenters indicated support for the proposed language at § 1327.15(a)(2)(ii) regarding standards to assure prompt response to complaints. One of these commenters indicated that States are in the best position to determine any response time frames through policies and procedures, and that a more specific requirement would place some States which rely entirely on Federal funds to operate the Ombudsman program in an untenable position.

Response: We appreciate the supportive comments and note that we have moved the relevant provision in the final rule to § 1327.11(e)(1)(v).

Comment: Five commenters indicated a need for a national standard or additional guidance for what is considered a ''prompt response.''

Response: We believe creating one national standard of promptness would be unrealistic, given the extremely different variables among States. Some States have developed standards of promptness related to complaint response that are responsive to the realities in that State. We strongly encourage the development of minimum standards to provide consumers, providers and others with an expectation of what constitutes a timely response to a complaint. We note that these standards provide an important mechanism for Ombudsman program accountability. We are available to provide technical assistance to States and Ombudsmen as they develop these standards.

Comment: One commenter recommended that we refer to the availability of resources to the Ombudsman program, agreeing with the need for high standards, but not wanting to create unrealistic expectations.

Response: We provide sufficient flexibility to the States for state-specific standards in this rule, providing opportunity for the State agency and Ombudsman program to consider available resources as they develop the standards.

Comment: Eight commenters suggested that we use the term ''neglect'' instead of ''gross neglect'' or provide further clarification of ''gross neglect'' in § 1327.15(a)(2)(ii) and in other places where it occurs.

Response: We have adopted this recommendation within § 1327.11(e)(1)(v). In both the proposed rule and the final rule, the Ombudsman program is required to respond to and work to resolve complaints of neglect. In contrast, this provision specifically relates to what AoA requires of State agencies and Ombudsmen as they develop standards of promptness to respond to these and other types of complaints. The final rule, rather than distinguishing between ''gross neglect'' and ''neglect'' for purposes of triage, requires development of standards of promptness which can guide the Ombudsman program to prioritize abuse, neglect, exploitation, and time-sensitive complaints. The rule also requires consideration of the severity of the risk to the resident, the imminence of the threat of harm to the resident, and the opportunity for mitigating harm to the resident by providing services of the Ombudsman program in response to a complaint. Rather than distinguishing between ''neglect'' and ''gross neglect'' in this provision, this rule provides States with the latitude to consider the use of the terms (and accompanying definitions) that are most appropriate to their State's Ombudsman program.

For purposes of determining standards of promptness, States may

choose to use ''gross neglect,'' which is defined in NORS instructions, or ''neglect.'' We note that, ''neglect'' is defined in the Act at section 102(38) and by the Centers for Medicaid & Medicaid Services (CMS) regarding nursing facilities at 42 CFR 488.301. Alternatively, States may choose to rely on their relevant State definition of ''neglect'' in developing their standard of promptness.

Comment: One commenter indicated the need for the final rule to have a provision implementing section 712(b) of the Act (''Procedures for Access'') requiring States to have policies on Ombudsman program access to facilities, residents, and records and providing guidance on how to appropriately implement this statutory requirement. The commenter indicated that, before addressing disclosure of Ombudsman program records and files, Ombudsman program authority to access and obtain records should be addressed, and provided a number of related recommendations, including the need for the final rule to:

- Clarify times when the representative of the Office may have access to facilities and residents and providing for privacy in resident access.
- Provide for representatives of the Office to have access to the name and contact information of the resident representative, indicating that, when a resident is not competent to communicate with the Ombudsman, the resident representative is authorized by law to provide consent. The commenter indicated that, if the Ombudsman does not know how to contact the resident representative, he or she cannot fulfill his or her duties to the resident.
- Clarify that access to resident records should include ''other records relating to the resident'' and maintained by the facility. The commenter indicated that, should a facility consider nursing, therapy, financial or other common records that the facility maintains which relate to the resident to be other than ''medical or social,'' there could be a question about whether a representative of the Office has access to such records.
- Clarify that the statutory provision providing Ombudsman access to ''all licensing and certification records maintained by the State'' (at section 712(b)(1)(D)) includes unredacted licensing, certification, and complaint investigation files maintained by the State regarding long-term care facilities. This would enable the Ombudsman to meet the Act's requirement to monitor and analyze the implementation of laws pertaining to the ''health, safety, welfare, or rights of the residents, with respect to the adequacy of long-term care facilities and services'' as required by section 712(a)(3)(G)(i) of the Act, since the primary way a State implements the laws is through licensing and certification inspections and complaint investigations. The commenter argues that, if the access in this provision of the statute were to be limited to redacted records, the Ombudsman would have no more access than the general public under the state's public disclosure laws.

The commenter further notes that the confidential information in these State records would be subject to the disclosure limitations of section 712(d) of the Act.

Other commenters, in comments related to proposed language at § 1327.15(b), recommended that the final rule require ''prompt'' access to resident records and clearly state that all persons acting under the authority of the Office have access to resident records as part of a health oversight agency pursuant to HIPAA. Three commenters recommended that we incorporate language to clarify that access to resident records by the Ombudsman program should include authority to view records in any format and to obtain copies of the records. Two commenters indicated the need for additional clarity regarding how a representative of the Office should carry out his or her duties when a resident representative opposes a request for access to records.

Response: We agree that the rule is strengthened by incorporating provisions related to Ombudsman program access to facilities, residents and records and have added § 1327.11(e)(2) to require policies and procedures related to access. We have also added a provision in § 1327.15(b) to clarify the State agency's responsibility, as required by section 712(b) of the Act, to ensure that the Ombudsman program has sufficient authority and access to facilities, residents and needed information in order to perform required functions, responsibilities, and duties.

In addition, we have incorporated a provision at § 1327.11(e)(2)(vi) related to access of the Ombudsman to, and, upon request, copies of all licensing and certification records maintained by the State with respect to long-term care facilities, reflecting the statutory requirement in section 712(b)(1)(D) of the Act. While we are not suggesting that representatives of the Office be prohibited from this access, we anticipate that the Ombudsman and/or State agency will coordinate this policy and procedure development, and incorporate procedures for appropriate access of representatives of the Office, with the State agency or agencies which maintain such licensing and certification records. Ombudsman programs are not prohibited from access to unredacted licensing and certification records, which may include resident-identifying information, under the Health Insurance Portability and Accountability Act (HIPAA) of 1996. See HIPAA Privacy Rule, 45 CFR part 160 and subparts A and E of part 164; see also § 1327.11(e)(2)(vii) of this rule.

Comment: Two commenters disagreed with the proposed language that the Ombudsman program be required to prioritize abuse complaints, indicating that investigation of abuse is a protective services responsibility. One of the commenters indicated that, in their State, where an individual is the victim of abuse or at imminent risk, the Ombudsman program refers to protective services for investigation, indicating that the Ombudsman program will report abuse on certain occasions without resident consent if the allegation would potentially impact the health and safety of the individual and/or other residents. Another commenter requested clarification regarding establishing policy and procedure for the Ombudsman program to respond to abuse complaints, as required in the proposed rule at § 1327.11(a)(2)(ii), in light of the fact that the State agency that, in their State, serves as the official finder of fact related to allegations of abuse, neglect and exploitation.

Response: The Act requires the Ombudsman program to ''identify, investigate, and resolve complaints that . . . relate to action, inaction or decisions that may adversely affect the health, safety, welfare, or rights of the residents.'' Section 712(a)(3)(A) and (5)(B)(iii) of the Act. Abuse, neglect and exploitation of residents are among the complaints that fall within this purview. Through NORS, States report on the types of complaints processed by the Ombudsman program, specifically including complaint codes and definitions related to abuse, gross neglect and exploitation. ''Long-Term Care Ombudsman Program Complaint Codes,'' OMB 0985–0005, at pp. 1–3, 17–18.

The services of the Ombudsman program are distinct from, and as indicated in § 1327.21(c), may even conflict with the responsibilities of protective services. An individual resident, may, for example, have a complaint about protective services or may seek support from the Ombudsman program to realize a goal that is

inconsistent with his or her protective services plan.

While the complaint resolution function of the Ombudsman program requires ''investigation,'' an Ombudsman investigation is not for the same purposes as an investigation by protective services, licensing and regulatory agencies, law enforcement or other entities. This may result in confusion regarding the appropriate investigatory role of such entities. When an Ombudsman program receives any complaint (including, but not limited to, an abuse-related complaint), the goal is to resolve the complaint to the resident's satisfaction, rather than to substantiate whether the abuse or other allegation occurred. The Ombudsman program does not have a duty to collect sufficient evidence to meet the higher legal standards of proof that protective services, licensing or regulatory agencies, or law enforcement may need to meet their respective purposes. The Ombudsman program investigates solely for the purpose of gathering necessary information to resolve the complaint to the resident's satisfaction, not to determine whether any law or regulation has been violated for purposes of a potential civil or criminal enforcement action.

With the Ombudsman program fulfilling its duties, the priorities and interests of the individual resident can be supported and advocated for. If the protective services and other government systems charged with taking protective or enforcement actions are not providing the outcomes that serve the health, safety, welfare or rights of residents, the Ombudsman program is available to address the larger systemic problems. Therefore, it is critically important that each of these agencies is able to fully and distinctly fulfill their duties.

The provisions related to disclosure of resident identifying information, including exclusion from abuse reporting requirements, are set forth in § 1327.11(e)(3).

Comment: Three commenters indicated support for the proposed language at § 1327.15(a)(2)(iii). One of these commenters indicated that the proposed language very effectively addresses the practical and achievable balance between Ombudsman program requirements regarding disclosure and the State agency's need to responsibly monitor for Ombudsman program integrity and effectiveness.

Response: We appreciate the supportive comments and note that the provisions regarding disclosure policies and procedures are now found at § 1327.11(e)(3).

Comment: One commenter indicated that, since the State agency has the responsibility to monitor and provide oversight of the operation and performance of the Ombudsman program, it must be able to define, specify and require reports that reflect Ombudsman program activities and performance. While acknowledging the need to protect the identity of individuals served by the program, the commenter indicated that the State agency should be able to require the Ombudsman program to provide requested reports of aggregated program information.

Response: We agree that the State agency, in order to provide monitoring and personnel management, as required in §§ 1321.11 and 1327.15, may need to reasonably request reports regarding the activities of the Ombudsman program which do not conflict with the disclosure provisions of § 1327.11(e)(3). We have added language to the final rule at § 1327.15(e), clarifying this requirement.

Comment: One commenter requested further clarification regarding the decision point for disclosure of records and identities. Another commenter indicated that the discretion of the Ombudsman to decide whether to disclose any of the files or records maintained by the Ombudsman program, set forth in the proposed language at § 1327.15(a)(2)(iii)(A) and required by the Act at section 712(d)(2)(A), should also apply to the disclosure of the resident or complainant identifying information in the final rule, as required by the Act at section 712(d)(2)(B).

Response: We agree that the final rule should be consistent with the requirement of the Act at section 712(d)(2)(B) regarding Ombudsman discretion and have revised § 1327.11(e)(3) to provide that clarification.

Comment: One commenter recommended that the final rule direct the Ombudsman to use criteria to guide his or her discretion in determining whether to disclose the files, records or other information of the Office and to include in procedure the different types of requests, source of the request, and identification of the appropriate designee for determination of the disclosure. For example, the commenter indicated that a representative of the Office should be able, with resident permission, to share with facility staff that the resident has requested a particular service. In contrast, the Ombudsman may wish to make a determination directly should a representative of the Office receive a subpoena to testify at and bring case records to a deposition.

Response: We believe that the discretion described by the commenter is consistent with the proposed language, but the request to provide additional clarification has merit. We have revised the provision at § 1327.13(e)(3) in the final rule to require that the Ombudsman, in carrying out the responsibility to use his or her discretion related to the disclosure of Ombudsman program information, be required to develop and adhere to criteria to guide this determination. In addition, we require the Ombudsman to develop and adhere to a process for determining which types of information, to whom, and under what circumstances, the Ombudsman may delegate determinations regarding the disclosure of information.

Comment: One commenter recommended that some entity must have access to review basic file information to be sure that records are kept up to date and proper information maintained. They indicated familiarity with a situation in which an AAA determined that a number of representatives of the Office within a local Ombudsman entity were not keeping records updated and some did not know how to properly use case management software.

Response: We agree that regular monitoring of the records and reporting of the representatives of the Office is important. It is the responsibility of the Ombudsman to monitor the performance of local Ombudsman entities in fulfilling their Ombudsman program duties, including maintaining updated and accurate records and reporting their work in a timely and accurate manner. *See* § 1327.13(c)(1)(3).

The State agency is required to monitor the performance of the Ombudsman program for quality and effectiveness; in so doing, it may request and review reports of aggregate data (*see* § 1327.15(e)). However, we believe the Act is clear in limiting access to the identifying information of residents and complainants to the Office (*i.e.* the State Ombudsman and representatives of the Office) with very limited and specified exceptions. Section 712(d)(2)(B) of the Act.

Comment: Six commenters recommended that language be added to provide for Ombudsman program disclosure to protection and advocacy systems (P&As). One of these commenters indicated that limiting access to information by the P&As may violate P&A authority to access records under Federal statute, may jeopardize

the work of the protection and advocacy network, and may be harmful to the people served. Another commenter recommended language clarifying that representatives of the Office must share records with P&As when confidentiality standards are met to assure cooperation between the two entities. Three of the commenters indicated the importance of the P&A mission to access Ombudsman information especially in light of residents who are unable to communicate informed consent. One commenter recommended that we require Ombudsman programs to report allegations of abuse, neglect and exploitation to P&As.

Three commenters recommended specific language to permit disclosure of resident or complainant-identifying information to P&As in the proposed rule at § 1327.15(a)(2)(iii) (the corresponding provisions are in the final rule at § 1327.11(e)(3)). One of these commenters indicated some P&As have faced barriers in accessing needed documents from Ombudsman programs.

Response: As ACL is the entity that administers grants to States both for the P&As and the Ombudsman program, we appreciate the significant value of both programs and understand the distinctions between them. We strongly support coordination of these programs, noting that such coordination is required in § 1327.13(h) of this rule.

Nothing in this rule prohibits the Ombudsman from making a determination to disclose information in response to a P&A request where the information:

- Does not provide resident-identifying information (for example, aggregated complaint trends);
- provides resident-identifying information where the resident indicates his or her consent to the Ombudsman to do so; or
- is provided consistent with a court order requiring such disclosure.

Further, we have clarified that the Ombudsman has the authority to determine when resident-identifying information maintained by the Ombudsman program may be disclosed to appropriate agencies (which may include P&As) for, among other things, ''access to administrative, legal, or other remedies'' in specified circumstances in which the resident is unable to communicate informed consent. *See* § 1327.19(b)(6), (7), and (8).

ACL understands that these provisions address some, but not all, of the recommendations of these commenters. In implementing the DD Act, ACL seeks to ensure that P&As have access to information and records as described in the DD Act. In implementing the OAA, ACL seeks to assist Ombudsman programs to fulfill their duty to protect resident and complainant privacy and to honor the preferences of residents and complainants to reveal (or not reveal) identifying information. In addition, ACL seeks to implement the statutory requirement that Ombudsman program files and records ''may be disclosed only at the discretion of the Ombudsman.'' OAA Section 712(d)(2)(A).

Questions regarding P&A and Ombudsman program information sharing have understandably emerged in the context of implementation of these statutes and coordination of these programs. ACL plans to separately develop a process for additional public input focused on these questions in order to assist ACL in its implementation of these statutes and administration of these programs. However, since we did not include a request for comment regarding information sharing between P&A and Ombudsman programs in the notice of proposed rulemaking, ACL has made no change to the final rule on this topic.

Comment: One commenter recommended language to incorporate the statutory provision protecting the identity of any complainant, including staff of a long-term care facility.

Response: We agree that the Act, at section 712(d)(2) addresses protection of identifying information of the complainant as well as the resident at issue. We have, therefore, added a new provision at § 1327.11(e)(3)(iii) in the final rule that specifically addresses disclosure of identifying information of complainants. This provision is intended to protect the identity of any individual making a complaint to the Ombudsman program, including, but not limited to, the staff of a long-term care facility. We also note that the final rule includes a new provision requiring the prohibition and investigation of allegations of interference, reprisals and retaliation with respect to any resident, employee, or other person for filing a complaint with, providing information to, or otherwise cooperating with any representative of, the Office. § 1327.15(i).

Comment: One commenter recommended that § 1327.15(a)(2)(iii)(B)(*1*) and (*2*) include parallel provisions which clearly permit oral consent for disclosure by the resident representative.

Response: We believe that the recommendation is consistent with the Act at section 712(d)(2)(B)(ii), which permits oral consent for disclosure with contemporaneous documentation by the representative of the Office and have made this revision in the final rule, in a newly numbered provision at § 1327.11(e)(3)(ii)(B).

Comment: One commenter indicated that the ability of an individual to communicate consent may be difficult to ascertain and recommended inclusion of language that permits visual consent, such as by use of video or other visual means, nods, blinks of eye, finger tapping, etc.

Response: We agree that residents with varying abilities may communicate consent in a number of ways. This is why we did not limit communication to verbal communication and have added the use of auxiliary aids and services as an appropriate aid to communication. We believe that adoption of this recommendation appropriately adapts the services of the Ombudsman program to accommodate individuals with a variety of disabilities. In light of this recommendation, we have added ''visually,'' to the final rule wherever ''consent orally'' is found, at §§ 1327.11(e)(2)(iv)(B), (e)(3)(ii)(B), (e)(3)(iii)(B) and 1327.19(b)(4).

Comment: One commenter indicated that the proposed language at § 1327.15(a)(2)(iii)(B)(*2*) should be amended to clarify that the resident's guardian or other legal representative may provide consent.

Response: We agree that this recommendation provides for additional clarity and consistency among the consent-related provisions of the rule and the Act. We have made these amendments in the newly numbered provision at § 1327.11(e)(3)(ii)(B).

Comment: One commenter indicated support for the language of the proposed rule at § 1327.15(a)(2)(iii)(D).

Response: We appreciate the supportive comment and note that the corresponding provision is now found as part of the Ombudsman responsibilities related to disclosure at § 1327.13(e).

Comment: One commenter indicated that the language of the proposed rule at § 1327.15(a)(2)(iii)(D) appears to require a separate procedure for disclosure of each type of file, rather than an over-arching procedure.

Response: We believe the revised language at in the newly numbered provision at § 1327.13(e) addresses this comment.

Comment: Two commenters indicated that the language of the proposed rule at § 1327.15(a)(2)(iii)(D) should include the limitation that disclosure of facility records be limited to those which ''residents have, or the general public has access,'' referencing this language in section 712(b)(1)(C) of the Act.

Response: The language cited by the commenter relates to Ombudsman program access to facility information, rather than disclosure of Ombudsman program information once it is obtained from the facility. However, we have incorporated this relevant statutory language into the new provision regarding ''procedures for access'' in the final rule at § 1327.11(e)(2)(v).

Comment: One commenter indicated that the language of the proposed rule at § 1327.15(a)(2)(iii)(D) fails to put limitations on the Ombudsman's discretion regarding disclosure of Ombudsman records and files, that the term ''for appropriate disclosure'' is too vague, and that the requirement that the State agency must comply with section 712(d) of the Act is omitted. The commenter recommended inclusion of the discretionary authority of the Ombudsman over Ombudsman program records and files in this provision.

Response: We believe the revised language in the newly numbered provision at § 1327.11(e)(3), regarding disclosure policies and procedures, and at § 1327.13(e), regarding Ombudsman responsibilities related to disclosure, addresses this comment.

Comment: Nine commenters indicated support for the language of the proposed rule at § 1327.15(a)(2)(iii)(E) regarding abuse reporting requirements. One of these commenters indicated that the proposed language is essential for the Ombudsman to gain a resident's trust, given the unique role of the Ombudsman as the resident advocate and that, without the ability to assure confidentiality of resident information, the ability of the Ombudsman to gather information needed for successful resolution of problems would be impaired. One of these commenters indicated that some State laws currently conflict with the requirements of the Act and that this language would help clarify the need for changes in the language and/or interpretation of State laws with respect to Ombudsman reporting. Six commenters indicated that the proposed language is a welcome clarification since a number of States have experienced confusion in resolving the conflict between the Act's limitations on Ombudsman disclosure of resident identifying information and State mandated abuse reporting laws. One commenter indicated that the proposed language would strengthen the Ombudsman program ability to resolve complaints on behalf of residents.

Response: We appreciate the supportive comments and note that the relevant provision is now incorporated into a newly numbered provision in the final rule at § 1327.11(e)(3)(iv).

Comment: Two commenters recommended the inclusion of penalties for a State agency which violates this provision.

Response: We have not included penalties in this provision specifically; the broader topic of the State agency duty to provide for sanctions with respect to interference, retaliation and reprisals is addressed at § 1327.15(i). In addition, the Federal regulation provides options for HHS grant awarding agencies such as AoA to respond when a grantee fails to comply with any term of an award ensure compliance by its grantees. 45 CFR 75.371.

Comment: Two commenters disagreed with the language of the proposed rule at § 1327.15(a)(2)(iii)(E) regarding abuse reporting requirements. One of these commenters indicated that the Ombudsman program should defer to State regulations with respect to mandatory reporting requirements in protective services matters. The other commenter asked why the Federal government would not want a system that requires advocates to keep people safe from further abuse.

Response: Through the strict disclosure limitations within the OAA at section 712(d)(2)(B), Congress has indicated its intent for the Ombudsman program to be a safe place for the concerns of residents to be brought, knowing that their information will not be disclosed without their consent (or the consent of the resident representative). Despite numerous Congressional reauthorizations of the Act, Congress has never provided an exception for abuse reporting in the Act. While we have provided, in this final rule, limited exceptions for reporting resident-identifying information where residents are unable to communicate informed consent (see § 1327.19(b)), we do not believe that the Act provides us with the authority to promulgate a rule that would permit Ombudsman program reporting of resident identifying information if the resident or resident representative, who is able to communicate informed consent, has not provided consent nor do we support such reporting over the resident's objection, as a matter of policy.

Residents reaching out for assistance on an abuse, neglect or exploitation complaint may well want their information conveyed by the Ombudsman program to protective services, the licensing and regulatory agency, and/or law enforcement; indeed, the final rule clarifies that the Ombudsman program has a duty to make such a referral when requested by the resident. *See* § 1327.19(b)(3)(i)). The Ombudsman program may inform complainants who report suspected abuse that they may (and, under some circumstances, must) report the complaint information to protective services, the licensing and regulatory agency, and/or law enforcement. The Ombudsman program may advise the resident of the appropriate role and limitations of the Ombudsman program, assist the resident in understanding his or her options, and encourage the resident to report—and/or consent to the Ombudsman program referral—to protective services, the licensing and regulatory agency, and/or law enforcement.

However, the Ombudsman program is designed to represent the interest of the resident (and not necessarily the interest of the State) in order to support the resident to make informed decisions about the disclosure of his or her own information. Residents may be concerned about retaliation if their concern is known or have other reasons why they do not want the Ombudsman program to disclose their private information. While Congress intends for the Ombudsman program to resolve complaints related to the health, safety, welfare and rights of residents, and while that intent logically includes response to and protection from abuse, Congress provided the resident—and not the Ombudsman program—with the authority to make the decision about when and where resident-identifying information can be disclosed by the Ombudsman program. That is as it should be.

Comment: One commenter recommended adding the word ''including'' to modify ''when such reporting discloses the identity of a complainant or resident'' in the proposed rule at § 1327.15(a)(2)(iii)(E) regarding abuse reporting requirements. According to the commenter, as proposed, the Ombudsman program could be included as a mandatory reporter under State law so long as they don't include resident or complainant identity.

Response: We have adopted this recommendation in the provisions related to policies and procedures for disclosure at § 1327.11(e)(3)(iv). The circumstances which set forth appropriate parameters for Ombudsman program reporting of abuse as part of complaint processing are more fully described in the final rule at § 1327.19(b).

Comment: One commenter requested technical assistance to States for which the current State law is inconsistent with the Act regarding abuse reporting. Another commenter requested

additional clarification regarding State agency responsibility and Ombudsman authority related to abuse reporting.

Response: AoA continues to be available to provide technical assistance to State agencies and Ombudsmen regarding compliance with these and other provisions of the Act.

Comment: One commenter requested an exception related to reporting where an incident of abuse is witnessed by a representative of the Office.

Response: We have provided clarity regarding this circumstance in the final rule at § 1327.19(b)(8).

Comment: One commenter recommended guidance regarding Ombudsman program responsibility related to attending consent for identity disclosure when a resident alleges suicidal ideation.

Response: While we have not included a regulation regarding disclosure of resident identifying information when the resident alleges suicidal ideation into this rule, we appreciate the comment and have noted the need for technical assistance for State agencies and Ombudsman programs related to this issue.

Comment: Three commenters indicated support for the language of the proposed rule at § 1327.15(a)(2)(iii)(F) regarding the source of the request for information or source of funding for the Ombudsman program services.

Response: We appreciate the supportive comments and note that the relevant provision is now incorporated into a newly numbered provision in the final rule at § 1327.11(e)(3)(v).

Comment: One commenter recommended that we add reference to the fact that the requirements of the proposed provision should be effective notwithstanding section 705(a)(6)(c) of the Act.

Response: We are aware that some State agencies and other entities have found this provision (governing administration of the Title VII, Chapter 3, Prevention of Elder Abuse, Neglect and Exploitation Program, and not the Ombudsman program) confusing, particularly since both of these programs are established within Title VII of the Act. Additionally, in some States, Title VII, Chapter 3-funded activities are performed in whole or in part by the Ombudsman program. Therefore, we are including this recommendation to clarify our intent in the final rule at § 1327.11(e)(3)(v).

Comment: One commenter recommended that we clarify the protection of facility staff members who are willing to speak openly in Ombudsman program investigations and may be at risk of retaliation for their cooperation.

Response: The Ombudsman is provided discretion by the Act to determine disclosure of files, records and other information of the Office. The policies and procedures regarding disclosure, required by § 1327.11(e)(3), and the criteria developed by the Ombudsman related to disclosure, required by § 1327.13(e), may appropriately include provisions related to protection of sources of information.

The Act does not prohibit the Ombudsman program from disclosing identifying information for facility staff members or other individuals who provide information to the Ombudsman program. However, it does provide that ''[t]he State shall . . . (2) prohibit retaliation and reprisals by a long-term care facility or other entity with respect to any resident, employee, or other person for filing a complaint with, providing information to, or otherwise cooperating with any representative of, the Office.'' Section 712(j)(2) of the Act.

Therefore, we have added a provision in this final rule at § 1327.15(i) regarding interference, retaliation and reprisals.

Comment: One commenter recommended that we include the word ''independently'' to describe the authority of the Ombudsman to recommend changes to laws, regulations, and policies as set forth in the proposed language of § 1327.15(a)(2)(v).

Response: We believe that the final rule, at § 1327.11(e)(8) is sufficiently clear that the Ombudsman has discretion to make such recommendations. The Ombudsman is the head of the Office, and Act is clear that the Office is to make the determination regarding the appropriateness of recommendations. Therefore, we do not believe the recommended change is necessary.

Comment: One commenter indicated that in their State, current policies and protocols prohibit the State agency from upholding this requirement.

Response: We appreciate the commenter bringing this issue to our attention in the comment. The Act is clear that the Office has the authority to make recommendations regarding changes to laws, regulations, and policies pertaining to the interests of long-term care facility residents. This is both a required function of the Ombudsman (at section 712(a)(3)(G) of the Act) and an expectation of the State agency to require of the Office (section 712(h)(2) of the Act). AoA plans to provide assistance to State agencies and Ombudsmen to assist them in coming into compliance with this rule.

Comment: Twelve commenters indicated support for the proposed language at § 1327.15(a)(2)(v)(A) regarding the State's duty to exclude the Ombudsman and representatives of the Office from State lobbying prohibitions inconsistent with the Act. One of these commenters indicated that this is a welcome clarification since many States have experienced problems with implementing these provisions of the Act. One commenter indicated that the proposed language supports the independence of the Office and the ability of the Ombudsman to fulfill requirements of the Act. One commenter indicated that the proposed language is essential to shield the Ombudsman program from potential interference.

Another commenter indicated that the Act is clear in its directive that the Ombudsman program is to provide input on public policy decisions that pertain to health, safety, welfare and rights of residents, and that the proposed language will help secure this vital voice for long-term care consumers in the public policy arena.

Response: We appreciate the supportive comments and note that relevant provisions are found at §§ 1327.11(e)(5) and 1327.13(a)(7)(vii) of the final rule.

Comment: One commenter recommended that we indicate that obstruction of the activity required at § 1327.15(a)(2)(v)(A) (*i.e.* the State agency responsibility to exclude the Office Ombudsman and representatives of the Office from State lobbying prohibitions inconsistent with section 712 of the Act) by a host agency is willful interference and should be reported to AoA for investigation. Another recommended that the provision should include penalties for a State agency that violates this provision of the Act.

Response: In the final rule, the corresponding provision related to State lobbying prohibitions is found at § 1327.11(e)(5)(i). Federal regulation provides options for HHS grant awarding agencies such as AoA to respond when a grantee, such as a State agency, fails to comply with any term of an award. 45 CFR 75.371.

Comment: One commenter recommended that the provision at § 1327.15(a)(2)(v)(A) indicate that the Ombudsman and representatives of the Office are excluded from lobbying restrictions within the State agency or local Ombudsman entities' personnel policies.

Response: The final rule requires that the agency hosting the Office and any agency hosting local Ombudsman entities may not have personnel policies or practices which prohibit the Ombudsman or representatives of the Office, respectively, from carrying out their functions, responsibilities or duties required by this rule. §§ 1327.11(e)(1)(i), 1327.17(b).

Comment: One commenter indicated that, in their State, the Ombudsman is organizationally located in a government umbrella agency and must adhere to State protocols related to legislative action and lobbying which apply to State employees. The commenter recommended that AoA consider differences in structure from State to State in finalizing this rule. Another commenter indicated that the Ombudsman in their State is a State employee and is therefore bound by policy that does not exclude the Ombudsman from State lobbying prohibitions. The commenter anticipates significant challenges in their State in upholding this proposed provision based on current State policy.

Response: We appreciate the commenters bringing these issues to our attention. The Act is clear that Congress intends for the Office to have the authority to make recommendations regarding changes to laws, regulations, and policies pertaining to the interests of long-term care facility residents. This is both a required function of the Ombudsman (at section 712(a)(3)(G) of the Act) and an expectation of the State agency to require of the Office (section 712(h)(2) of the Act).

Should a State not wish to have a State employee in the role of fulfilling the Ombudsman functions of the Act, the Act provides States with options to carry out the program by contract or other arrangement with another public agency or a nonprofit private organization. Section 712(a)(4)(A) of the Act. AoA plans to assist State agencies and Ombudsmen to comply with this rule.

Comment: One commenter indicated that the proposed language at § 1327.15(a)(2)(v)(A) essentially negates the wisdom of input of others and questioned the wisdom of one person having unilateral authority to express their opinion about any legislative bill or legal matter. The commenter indicated that the State aging network is to be a comprehensive, coordinated system of care for older adults and that this proposed rule pits one part of the network against another. The commenter also questioned how the State agency can be required by the Act to advocate for older adults except where the Ombudsman program exists, describing this as an inconsistent message.

Response: It is not the intent of AoA to negate the wisdom of input of others in the work of the Ombudsman program. On the contrary, we expressly provide (at newly numbered § 1327.11(e)(5)(ii)) that policies which promote consultation regarding the determinations of the Office are not prohibited and we require that the Office coordinate its activities with a large number of relevant entities (at § 1327.13(h)). We strongly encourage collaboration between the Ombudsman and the State agency, as well as with other stakeholders.

We intend to clarify in this rule how both the State agency and the Ombudsman program can successfully fulfill all of the functions and duties required by the Act. AoA is available to provide technical assistance to any State in its implementation of the final rule.

Comment: One commenter requested additional clarification regarding the roles and responsibilities of the Ombudsman program with respect to lobbying and legislative advocacy as well as the interaction between the Ombudsman program and the State agency in its fulfillment of oversight duties. The commenter requested enhanced technical assistance and sub-regulatory guidance for gubernatorial, State agency, State legislative, and local levels regarding the proposed language at § 1327.15(a)(2)(v)(A).

Response: We believe that the final rule assists in clarifying the responsibilities of the Ombudsman, the representatives of the Office, and the State agency. We are available to provide training and technical assistance regarding the implementation of the final rule.

Comment: One commenter requested that we amend the proposed language regarding the Office making recommendations to ensure that local Ombudsman entities are able to carry out their duties freely and independently from the Office. The commenter indicated that, if the Ombudsman is given authority to veto positions of representatives of the Office, in many States residents of long-term care facilities may have no voice at all.

Response: The Act sets out the Ombudsman as the head of the Office. Section 712(a)(2) of the Act. The Ombudsman has the authority to make determinations regarding the positions of the Office, including but not limited to recommendations for changes in laws, regulations and policies. *See* section 712(h)(2) of the Act. We note that there is nothing prohibiting the Ombudsman establishing policies that provide for representatives of the Office to also perform the function of making recommendations, and that the final rule requires procedures that exclude representatives of the Office from any state lobbying prohibitions inconsistent with section 712 of the Act.

However, the duties of the representatives of the Office are to be performed in accordance with the policies and procedures established by the Office and the State agency. Section 712(a)(5)(B) of the Act. Therefore, we believe that requiring the State agency or the Ombudsman to permit representatives of the Office to make recommendations freely and independently from the Office would be inconsistent with the Act.

Comment: One commenter indicated that, related to the proposed language at § 1327.15(a)(2)(v)(A), some local Ombudsman entities are organizationally located within agencies funded by Legal Services Corporation (LSC) which prohibits lobbying. The commenter recommended that AoA require LSC-funded entities to comply with the Act or the Ombudsman should be required to ensure that advocacy for residents in areas served by legal services programs is being done by contracting with a separate entity to perform services prohibited by the LSC.

Response: Congress has prohibited LSC-funded entities from participating in certain lobbying activities, except in limited situations. This prohibition also applies to activities performed with non-LSC funds. *See* 42 U.S.C. 2996e; section 504 (a)–(e), Public Law 104–134, 110 Stat. 1321, 1321–53—1321–57; 45 CFR parts 1610, 1612. (We note that a transfer of non-LSC funds from a LSC entity to a non-LSC sub-grantee is not subject to LSC restrictions. *See* 45 CFR part 1610; *see also* 62 FR 27695–27597.) AoA does not have the authority to require LSC-funded entities to violate Federal requirements under the LSC laws and regulations in order to carry out the requirements of the Act.

AoA has concluded that, in light of the current LSC limitations on policy work with a legislative body or other government offices or agencies, if an Office were to be organizationally located in a LSC-funded entity, the Ombudsman would be unable to fulfill all of the functions required by the Act. Therefore, it would not be appropriate for a State to select an LSC-funded entity for organizational placement of the Office under current laws and regulations governing LSC-funded entities. Nonetheless, LSC-funded entities could host local Ombudsman

entities or representatives of the Office so long as the Ombudsman determines that the representatives of the Office can adequately fulfill their duties directly or in conjunction with the Office.

We note that the functions which could violate the LSC provisions are specifically listed as required functions of the Office (*i.e.* the Office of the State Long-Term Care Ombudsman), as opposed to duties required of local Ombudsman entities or representatives of the Office. For example, the function to recommend any changes in such laws, regulations, policies, and actions (section 712(a)(3)(G)(ii) of the Act) is required of the Office, but not listed within the duties of the representatives of the Office as set forth in section 712(a)(5) of the Act. The State agency is required by the Act to require the Office to provide policy, regulatory, and legislative recommendations in its annual report (section 712(h)(1)(F)); recommend changes in laws, regulations and policies (section 712(h)(2)) and provide information to legislators regarding recommendations related to problems and concerns (section 712(h)(3)).

We recommend that, if the Ombudsman is considering designating (or continuing to designate) an LSC-funded entity as a local Ombudsman entity, the Ombudsman be familiar with the relevant LSC requirements that may impact the ability of the representatives of the Office to perform some systems advocacy activities.

The Ombudsman should evaluate whether the LSC requirements limit the ability of the representatives of the Office to adequately fulfill their requirements under the policies and procedures of that State's Ombudsman program. So long as the Office is able to fulfill all of its functions required by the Act, we do not interpret the Act to prohibit the Ombudsman from designating a local Ombudsman entity hosted by a LSC-funded entity. AoA is available to provide technical assistance to State agencies and Ombudsmen. Any LSC-funded entity which is requesting consideration to host (or continue to host) a local Ombudsman entity should similarly be familiar with these limitations, seek guidance from LSC regarding their interpretation, and evaluate its ability to support its employees and volunteers in fulfilling their duties as representatives of the Office. Ultimately, the LSC-funded entity is responsible for its compliance with LSC requirements and prohibitions. LSC has developed helpful guidance regarding these LSC lobbying restrictions that is available on its Web site at *www.lsc.gov.* The most recent guidance is at *http://www.lsc.gov/sites/lsc.gov/files/AO-2014-005.pdf.*

Comment: One commenter supported the proposed language at § 1327.15(a)(2)(v)(B) regarding consultation on Ombudsman determinations by the State agency or other agency carrying out the Ombudsman program and regarding accountability of the Ombudsman and representatives of the Office to the policies and procedures of their employer. The commenter indicated that, while the State agency may not interfere with the Ombudsman's functions, and while the Ombudsman does have the authority to have a different agenda and position than that of the State agency, it is crucial that the State agency be permitted to request regular communication regarding the Ombudsman's determinations.

Response: We appreciate the supportive comment and note that the relevant provision in the final rule is § 1327.11(e)(5)(ii).

Comment: One commenter indicated that the proposed rule at § 1327.15(a)(2)(v)(B) attempts to use the regulatory process to create a positive relationship. Where that already exists, this requirement is unnecessary and where there is tension, the State authority to create policies that force the Ombudsman to disclose and discuss policy strategies and determinations will make the relationship more difficult. The commenter indicated that the rule is silent on the State agency's responsibility to share its policy decisions and determinations with the Ombudsman.

Response: Our intent in this provision is to clarify the appropriateness of the relationship between the State agency and the Ombudsman program, given that the State agency is the Federal grantee with responsibility for making sure that an Ombudsman program is appropriately carried out in the State and that the Office has the statutory authority and requirements to make determinations which are not typical of other programs for which the State agency has responsibility. We believe the provision appropriately describes this relationship so that the State agency and the Ombudsman—as well as the entity carrying out the Office, if other than the State agency—have more clarity regarding both the appropriateness of consultation and the inappropriateness of interference with Ombudsman determinations.

Comment: One commenter suggested separation of the employer policies and procedures and the opportunity for consultation at § 1327.15(a)(2)(v)(B).

Response: We agree that it would be clearer to separate these concepts, rather than combining them into one paragraph. Therefore, in the final rule the provisions related to personnel policies and the Office have been incorporated into § 1327.11(e)(1)(ii). The provisions related to personnel policies of agencies hosting local Ombudsman entities are at § 1327.17(b). We retain the amended provision related to consultation and systems advocacy at newly numbered provision at § 1327.11(e)(5)(ii).

Comment: One commenter provided suggested language focusing the consultation requirement § 1327.15(a)(2)(v)(B) on public policy determinations of the Office.

Response: We agree that the determinations of the Ombudsman most appropriate for consultation are those related to recommendations to laws, regulations and policies of government agencies and have made this amendment to the final rule and moved the provision to the subparagraph entitled ''Systems Advocacy'' in § 1327.11(e)(5).

Comment: One commenter objected to and suggested deletion of the proposed language at § 1327.15(a)(2)(v)(B). The commenter indicated that the primary threat to the success and integrity of the Ombudsman program is its lack of independence and that the most common entity to threaten that independence is the State agency. The commenter indicated that AoA is unrealistic to believe that State agencies do not sometimes use consultation requirements to interfere with Ombudsman independence and, that, by authorizing the State agency to require consultation, AoA was putting Ombudsman independence into question. The commenter indicated that good communication can take place without putting this requirement into the final rule.

Response: The provision regarding consultation, in the final rule at § 1327.11(e)(5)(ii), permits the policies and procedures of a State's Ombudsman program to promote Ombudsman consultation with the State agency on systems advocacy. It is permissive, rather than a requirement. While we appreciate the commenter's concern regarding the Ombudsman program's ability to independently fulfill its functions, we believe that the rule in its entirety supports the commenter's concern that the Office should operate as a distinct entity (*see,* § 1327.11(b)) and that the Ombudsman be able to make independent determinations (*see* § 1327.11(e)(8)).

We believe that the final rule strikes the right balance between this independence and the opportunity for a State agency to be knowledgeable of the determinations of the Office, since the head of the Office (*i.e.* the Ombudsman) is necessarily either its employee, or employed by an entity with which it has a contract or other arrangement. In addition, without consultation, the State agency may be limited in its ability to make its own determinations with full knowledge of the perspectives of the Office related to resident interests.

Comment: One commenter indicated that the provision at § 1327.15(a)(2)(v)(B) should be amended to indicate that an employer's policies must be in accordance with the access, confidentiality and disclosure provisions set forth in section 712 of the Act.

Response: We agree with this recommendation and have incorporated related language into § 1327.11(e)(1)(i) (regarding the Office) and §§ 1327.11(e)(ii) and .17(b) (regarding agencies hosting local Ombudsman entities).

Comment: One commenter indicated that the proposed language at § 1327.15(a)(2)(v)(B) should be amended to indicate that a policy promoting consultation cannot require a right to review or pre-approve communications by the Ombudsman or representatives of the Office.

Response: We agree with the recommendation and have made a corresponding amendment in the final rule at § 1327.11(e)(5)(ii).

Comment: One commenter recommended that the provision at § 1327.15(a)(2)(v)(B) require, rather than not prohibit, consultation. The commenter argued that such a requirement would promote effective Ombudsman program operation by ensuring that both the Ombudsman and State agency have an opportunity to discuss and review positions and so that neither is caught off guard in public arenas.

Response: We agree that consultation can promote effective Ombudsman program operation if done in a manner supportive of the Office's responsibility to represent the interests of residents through recommended changes to laws, regulations and policies of government agencies. We believe that it is sufficient to clarify that such consultation is not prohibited and to leave the determination up to the State agency and Ombudsman of whether the parameters of consultation need to be formalized in state-level policies and procedures.

Comment: One commenter indicated that the only way to make sure that political interference with the Ombudsman does not occur is to require that the State agency cannot fire the Ombudsman due to the nature or content of the Ombudsman's advocacy. The commenter recommended this be required in State policies.

Response: After careful consideration, we have decided against providing specific criteria regarding the firing of the Ombudsman. We believe that the clarifications provided by this rule related to the operation of the Ombudsman program; organizational and individual conflicts of interest; and freedom from interference, retaliation, and reprisals provide sufficient clarity to protect the Ombudsman from retaliation for performing the duties required by the Act.

The Act specifically provides State agencies with significant latitude in determining whether to operate the Ombudsman program directly (and how to structure the program within or attached to the State agency) or operate it through contract or other agreement with another agency. Therefore, States have appropriately structured a wide variety of organizational placements for the Ombudsman and, as a result, there is wide variation among applicable laws impacting employment, labor, government contracting, and interagency agreements that may apply to the firing of an Ombudsman or the termination of a contract for the operation of the Office. AoA believes that developing criteria regarding firing might create confusion in the context of the wide variety of applicable legal requirements.

However, AoA is aware that a number of employment arrangements and organizational structures have been developed to protect employees within other types of ombudsman programs, inspectors general, and other entities where independent oversight or consumer advocacy are required activities. Therefore, AoA plans to provide States with further guidance and technical assistance regarding employment provisions and structures which they may consider in further strengthening the ability of the Ombudsman to fulfill his or her functions under the Act.

Comment: Three commenters indicated support for the proposed language of § 1327.15(a)(3) regarding the use of Title III and Title VII funds for access to training opportunities.

Response: We appreciate the supportive comments and note that, in the final rule, this provision is at § 1327.15(c).

Comment: One commenter requested language that defines training standards and indicated that budgetary constraints have resulted in insufficient training availability to representatives of the Office. Another commenter indicated that current training is insufficient, creating inconsistencies among local Ombudsman entities.

Response: We have decided to not incorporate training standards into this rule, but do plan to develop and implement training standards for the Ombudsman program. We also recommend that Ombudsman programs refer to the National Ombudsman Resource Center for training resources and a core curriculum.

Comment: One commenter indicated support for the proposed language of § 1327.15(a)(4) and (5) regarding the responsibilities of the State agency to provide personnel supervision and management, monitoring and oversight, and to clarify limitations on review of files, records or other information maintained by the Office.

Response: We appreciate the supportive comment.

Comment: One commenter indicated that the proposed language of § 1327.15(a)(4) and (5) regarding limitations on the review of files, records or other information maintained by the Office is too broadly written and could open up virtually all of the of the Ombudsman program records, files and thought processes to the State agency, resulting in a chilling effect on the Ombudsman program. The commenter recommended that it would more appropriate to indicate to the State agency that access to aggregate data and required Ombudsman program reports is sufficient to fulfill these responsibilities.

Response: In order to reduce confusion regarding disclosure of files, records or other information, we have revised these provisions in the final rule at newly numbered § 1327.15(d)–(f).

Comment: One commenter recommended that the provisions related to oversight of the Office at proposed § 1327.15(a)(4) and (5) should include a process for investigating complaints against the Ombudsman and representatives of the Office and a mechanism for due process in the event of disciplinary action or de-designation.

Response: We have included a new provision at § 1327.11(e)(6) of the final rule to require that the development of designation policies and procedures, which include the criteria and process for de-designation. In addition, we have added a grievance process requirement in § 1327.11(e)(7) to address this and other situations where an opportunity

for review of an action or determination is warranted.

Comment: One commenter indicated that the regulations include language specifying that allegations against the Ombudsman for failure to carry out his or her duties as required in the Act shall be filed with the State agency with concurrent notification to the Director of the Office of Long-Term Care Ombudsman Programs at AoA.

Response: We do not believe that we have authority to require a person with an allegation related to the Ombudsman to report to the State agency, AoA, or any other entity. Instead, we have required in the final rule, at § 1327.11(e)(7), that a grievance process be available to address this and other situations where an opportunity for review of an action or determination is warranted.

Comment: Two commenters indicated that the monitoring by the State agency, required at proposed rule § 1327.15(a)(5), should include an assessment of whether the Office is performing all required functions, including systems advocacy, but should be clear that such monitoring should not include monitoring the substance of any public comment or recommendation so it does not hinder the independent voice of the Ombudsman.

Response: We agree that the monitoring required in proposed § 1327.15(a)(5) (newly numbered at § 1327.15(e) shall include an assessment of whether the Office is performing all of its functions under the Act and have amended this provision accordingly. We have also made a parallel provision in the newly numbered § 1327.15(d), regarding personnel supervision and management.

In addition, we appreciate the commenter's concern regarding the Ombudsman program's ability to independently fulfill its function related to systems advocacy. We believe that the rule in its entirety supports the Act's requirement that the Ombudsman must be able to make independent determinations regarding recommended changes to laws, regulations or policies.

Comment: One commenter indicated that the proposed language was a good clarification of the importance of integrating Ombudsman program operations into the State Plan. Another commenter appreciation for the proposed language at § 1327.15(a)(6) regarding integration of the goals and objectives of the Office into the State plan and coordinate the goals of the Office with those of other programs and services, indicating that, as an Office operating outside of the State agency, such integration and coordination does not currently occur.

Response: We appreciate the supportive comments and note that the corresponding provision in the final rule is at § 1327.15(g).

Comment: One commenter recommended that we substitute the term ''promote collaborative efforts'' with ''require collaborative efforts'' in § 1327.15(a)(6) of the proposed rule.

Response: Given that the range of programs and services referenced in this provision include some entities over which the State agency may have no authority, we believe the term ''promote'' is more appropriate than ''require.'' We note that the corresponding provision in the final rule is at § 1327.15(g).

Comment: One commenter indicated that the proposed language at § 1327.15(a)(7) effectively describes the critical and unique dynamic between the Office and State agency, simultaneously maintaining an important separateness while coordinating closely on the State's elder rights agenda.

Response: We appreciate the supportive comments and note that the corresponding provision in the final rule is at § 1327.15(h).

We also note that we have added in the final rule the responsibility for the State agency to ''provide elder rights leadership'' in order to distinguish the role of the State agency from that of the Ombudsman, in response to comments made in response to proposed language at § 1327.13(l). We believe that this revision more accurately reflects the Act's requirement of the State agency to ''coordinate the programs [to address elder abuse, neglect and exploitation] with other State and local program and services for the protection of vulnerable adults.'' Section 721(d) of the Act.

We have amended the term ''responsibilities relevant to the health, safety, well-being, or rights of older adults, including residents of long-term care facilities'' for ''protection of vulnerable adults'' in order to more closely correspond to the language of § 1327.13(h). Additionally, we note that we have maintained the term ''older'' in this provision (though not in § 1327.13(h)) since this provision specifically relates to the duty of the State agency (*i.e.* the State unit on aging).

Comment: Nine commenters indicated support for the proposed language at § 1327.15(a)(8). One of these commenters indicated that independence of the Office to conduct advocacy on both individual and systemic levels without interference of State agencies, facilities or others is of primary importance. Two of these commenters indicated that Ombudsmen and representatives of the Office have experienced limitations on their ability to act due to policies or practices of their host agencies which have made them unable to fulfill their mandates under the Act. Two commenters indicated appreciation for the preamble language related to potential interference by State agencies. One commenter indicated that the proposed language reference to duties of the representatives of the Office (*i.e.* at the local level) is particularly helpful.

Response: We appreciate the supportive comments and note that the corresponding provision in the final rule is at § 1327.15(b).

Comment: Nine commenters recommended that a mechanism be developed and implemented to protect the Office whenever State agencies attempt to curtail the advocacy of Ombudsmen for people the Ombudsman program was created to serve. Some commenters recommended penalties for willful interference be included, such as civil money penalties or intermediate sanctions including directed plans of correction; others recommended that AoA provide a grievance process for review and action where interference is found.

Another commenter recommended that the final rule address sanctions for other parties, in addition to the State agency, that willfully interfere with representatives of the Office in the performance of their duties or retaliate against residents or other persons who complain to or cooperate with representatives of the Office as prohibited by 712(j) of OAA.

Response: The final rule includes a new provision requiring that the State agency prohibit interference with the Office in the performance of its functions and duties, as a result of considering these and other related comments. Specifically, we have addressed the issue of interference in new provisions at § 1327.1 (defining ''willful interference'') and § 1327.15(i) (related to interference, reprisals, and retaliation).

We note that the relationship between AoA and the State agency is one of a grant awarding agency to a grantee. Federal regulation provides options for HHS grant awarding agencies such as AoA to respond when a grantee fails to comply with any term of an award. 45 CFR 75.371

Comment: One commenter recommended that the final rule include the requirements in section 712(j)(2) and (3) of the Act which require the State to

prohibit retaliation or reprisals by any entity, including the State and local agencies as well as to long-term care facilities, and which require the State to provide for appropriate sanctions. Another commenter recommended that the rule provide the Office with the authority and ability to perform all duties and ensure that allegations of willful interference are investigated, and, as appropriate, referred to outside agencies. Another commenter recommended that the State agency be responsible to identify and remedy allegations of willful interference.

Response: We have incorporated provisions related to this recommendation at § 1327.15(b) and (i) of the final rule.

Comment: One commenter recommended that the proposed language at § 1327.15(b) regarding Ombudsman access to records be amended to require long-term care facilities to disclose the name and contact information of the resident's legal representative or guardian, indicating that this is necessary in order for a representative of the Office to identify whether a legal representative exists in order to make a contact when necessary. In addition, the commenter indicated that the provision should require ''prompt'' access to records as well as identify actions to be taken by the State agency where facilities violate this requirement.

Response: We have added a new provision in the final rule at § 1327.11(e)(2) requiring Ombudsman program policies and procedures which relate to timely access to facilities, residents and records, including contact information for the resident's representative.

We have also added a new paragraph in § 1327.15(b) to clarify the State agency's responsibility to assure that Ombudsman authority to access to facilities, residents and records is adequately provided for in State law. We recognize that, in many States, the State agency does not have the authority to make requirements of long-term care facilities, but we expect that it can work with other appropriate State agencies to provide for this authority.

Comment: Three commenters indicated support for the proposed language at § 1327.15(b)(1) regarding the relationship between the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and Ombudsman program access to records. One of these commenters indicated that this provision will help support Ombudsman program education to facilities and reduce delays in complaint resolution for residents.

Response: We appreciate the supportive comments and note that the corresponding provision is at § 1327.11(e)(2)(vii).

Comment: One commenter recommended that the language in the final rule should clearly state that all persons acting under the authority of the Office have access to resident records as part of a health oversight agency pursuant to HIPAA.

Response: We have clarified that both Ombudsmen and representatives of the Office have access to resident records, as well as other appropriate access to facilities, residents and records, in the new provision regarding ''procedures for access'' in the final rule at § 1327.11(e)(2).

Comment: One commenter recommended that AoA communicate with CMS regarding the importance of enforcing the HIPAA provision.

Response: We have shared this comment with CMS Division of Nursing Homes within the Center for Clinical Quality and Standards, as recommended. We also note that the HHS Office for Civil Rights enforces the HIPAA Privacy Rule, which protects the privacy of individually identifiable health information (*www.ocr.hhs.gov*).

Comment: One commenter recommended that the final rule include language to clarify that HIPAA does not prohibit covered entities (such as nursing facilities) from releasing to the Office:

(1) Other records related to the resident,

(2) a list of resident names and room numbers (indicating that, while this may not be considered private health information, some facilities have used HIPAA to deny Ombudsman program access to such information), or

(3) access to survey-related information, including at exit conferences during nursing facility surveys.

Response: We have amended the final rule at § 1327.11(e)(2)(vii) to clarify that the HIPAA Privacy Rule does not preclude release by covered entities of resident private health information or other resident identifying information to the Office, including but not limited to residents' medical, social, or other records, a list of resident names and room numbers, or information collected in the course of a State or Federal survey or inspection process.

Comment: One commenter indicated support for the proposed language in § 1327.15(b)(2), indicating that it assists the Ombudsman in performing essential functions of complaint investigations when a resident has a guardian or other legal representative.

Response: We appreciate the supportive comment and note that the related provisions are incorporated in the final rule at § 1327.11(e)(2)(iv) regarding procedures for access.

Comment: One commenter indicated that the proposed language in § 1327.15(b)(2) is inadequate with regards to Ombudsman program access to records and fails to mention access to residents, facilities or licensing agency records. The commenter recommended inclusion of the provisions of section 712(b) of the Act and additional provisions described in comments related to § 1327.15(a)(2). Another commenter recommended the need for provisions related to access to residents, as well as records. Two commenters indicated the need for additional clarity in the proposed language at § 1327.15(b)(2) regarding how a representative of the Office should carry out his or her duties when a legal representative opposes a request for access to records. One commenter recommended that the proposed language at § 1327.15(b)(2) be amended to provide for ''*appropriate* access to resident *medical and social* records.''

Response: We have incorporated new provisions related to procedures for access in the final rule at § 1327.11(e)(2) in response to these comments.

Comment: Three commenters recommended that we incorporate language to clarify that access to resident records by the Ombudsman program should include authority to view records in any format and to obtain copies of the records.

Response: In response to these comments, we have added the language ''regardless of format and including, upon request, copies of such records'' to the procedures for access provision in the final rule at § 1327.11(e)(2).

Comment: One commenter indicated that the proposed language at § 1327.15(c)(1) regarding the annual report is useful.

Response: We appreciate the supportive comment and note that the corresponding provision is in the final rule at § 1327.15(k)(1).

Comment: One commenter recommended that we change the proposed language to require the Office to ''*independently* prepare an annual report'' in § 1327.15(c)(1).

Response: We have made the recommended change in § 1327.13(g).

Comment: One commenter recommended that we change the proposed language to require the Office to ''*independently* analyze, comment on, and monitor'' in § 1327.15(c)(2).

Response: We have not made the recommended change in this provision.

Instead, we believe that this recommendation is adequately addressed within other provisions of the final rule, which requires that the policies and procedures of the Office must provide that the Ombudsman, as head of the Office, shall be able to independently make determinations and establish positions of the Office regarding (among other things) recommendations to changes in Federal, State and local laws, regulations, policies and actions pertaining to the health, safety, welfare, and rights of residents; and provision of information to legislators, regarding the problems and concerns of residents and recommendations related to the problems and concerns. Further, the final rule clarifies that these determinations and positions of the Office shall be those of the Office and shall not necessarily represent the determinations or positions of the State agency, or entity carrying out the Ombudsman program, or any other State agency. *See* § 1327.11(e)(8).

Comment: Two commenters recommended that we omit the word ''older'' in the proposed language at § 1327.15(c)(3)(i)(A).

Response: We have made the recommended amendment in the final rule at § 1327.13(a)(7)(v).

Comment: One commenter indicated that the proposed language at § 1327.13(c)(3)(ii) is a good clarification of the intended recipients of information contained in the reports prepared under paragraph (c)(1).

Response: We appreciate the supportive comment. We note that this language is identical to the provision at section 712(h)(3)(B) of the Act and that the corresponding provision is at § 1327.13(g) of the final rule.

Comment: One commenter indicated support for the proposed language at § 1327.15(c)(4) regarding procedures for training.

Response: We appreciate the supportive comment and note that the corresponding provision is at § 1327.13(c)(2) of the final rule.

Comment: One commenter recommended the need for additional guidance regarding minimum hours for initial training and continuing education as well as the content of such training. The commenter noted that training requirements vary widely among States and that this is a detriment to Ombudsman program consistency.

Response: We appreciate the commenter's perspective on the importance of consistency and minimum standards related to training for the Ombudsman program. In § 1327.15(c) in the final rule, we have clarified that States must provide opportunities for training for the Ombudsman and representatives of the Office in order to maintain expertise to serve as effective advocates for residents and that they may utilize funds appropriated under Title III and/or Title VII of the Act designated for direct services in order to provide access to such training opportunities.

While we have not incorporated training standards into this rule, we plan to develop and implement training standards for the Ombudsman program in the future. We also recommend that Ombudsman programs refer to the National Ombudsman Resource Center for training resources and a core curriculum.

Comment: One commenter recommended that we add to the categories of representatives with which the State agency must require the Office to consult in establishing Ombudsman program training procedures, specifically including representatives of residents of facilities and families of residents in § 1327.15(c)(4)(i).

Response: We have adopted this recommendation in the final rule by adding residents and resident representatives in § 1327.13(c)(2) of the final rule. We used the term ''resident representatives'' since friends, partners, and others whom a resident may authorize to represent them may include, but not be limited to, family members.

Comment: One commenter recommended that we add a new provision to the proposed language at § 1327.15(c)(4) to require that the representative of the Office must be a ''certified ombudsman.''

Response: We have not adopted this recommendation since we believe this is already provided for in the final rule. The provision refers to the term ''representative of the Office,'' which is defined in this rule at § 1327.1 to mean ''designated by the Ombudsman.'' In the context of the Ombudsman program, the Ombudsman certifies that an individual has met the training and other requirements necessary for an individual to serve as a ''representative of the Office.''

Comment: One commenter requested that we revise the reference in § 1327.15(c)(6)(ii) to protection and advocacy systems. Another commenter recommended that we include reference to the Protection and Advocacy of Individual Rights (PAIR) Act, 29 U.S.C. 794e.

Response: We have revised this reference in the final rule to be consistent with the broader references to protection and advocacy systems; the relevant provision is at § 1327.13(h)(4).

F. Responsibilities of Agencies Hosting Local Ombudsman Entities (§ 1327.17)

We have added a new section in the final rule, § 1327.17, in order for AoA to provide clarification regarding the responsibilities of agencies in which local Ombudsman entities are organizationally located.

Comment: One commenter recommended that we incorporate into the final rule the inclusion of the concept, included in the preamble of the proposed rule, that personnel management of the local Ombudsman entity not conflict with Ombudsman law and policy.

Response: We have incorporated this concept into a new § 1327.17 regarding ''Responsibilities of agencies hosting local Ombudsman entities.''

G. Duties of the Representatives of the Office (§ 1327.19)

At § 1327.19, AoA provides clarification regarding the duties of the representatives of the Office, particularly related to the core Ombudsman program service of complaint resolution. Through this rule, AoA emphasizes the person-centered nature of the Ombudsman program and its services to residents of long-term care facilities.

Comment: One commenter indicated that the title of § 1327.17would be clearer if titled ''Functions and Duties of Ombudsman Entities and Representatives,'' which more closely reflects the language in the Act. The commenter indicated that the ''Office of the State Long-Term Care Ombudsman'' is more closely identified with the State Ombudsman and the functions and responsibilities set forth in § 1327.13.

Response: In the proposed rule, this subsection was titled ''Functions and duties of the Office of the State Long-Term Care Ombudsman.'' We have titled the corresponding subsection, newly numbered as § 1327.19, ''Duties of the representatives of the Office'' in the final rule.

Comment: One commenter recommended that introductory language to § 1327.17 be included to more closely reflect the language of the Act at section 712(a)(5)(A) and (B).

Response: We have adopted this recommendation in the final rule, at § 1327.19, so that it more closely reflects the applicable language of the Act.

Comment: Three commenters expressed support for the proposed language in § 1327.17(a). Two of the commenters indicated that proposed language clarifies the role of the

representatives of the Office, including staff and volunteers. Another commenter indicated that the proposed language is helpful in that it clarifies that there is one Office of the State Long-Term Care Ombudsman within the State, made up of the Ombudsman and representatives of the Office.

Response: We appreciate the supportive comments and note that the relevant provisions are at § 1327.19(a) in the final rule.

Comment: One commenter indicated that § 1327.17(a) should include additional duties of representatives of the Office including survey involvement and transfer and discharge hearings.

Response: We have not included survey participation as a duty in § 1327.19(a) since it is not specifically required by the Act. However, we encourage Ombudsman program participation in survey process in the role of resident advocate (for example, by consulting with State survey agencies and providing relevant information to the survey agency prior to a facility survey subject to disclosure limitations, and by participating in resident group meetings or exit conferences). We note that many Ombudsman programs do participate in long-term care survey processes and that the AoA requires reporting of this activity in NORS. OMB NO.: 0985–0005.

Where the representative of the Office receives a discharge or transfer complaint, he or she is required to work to resolve this complaint. In fact, this complaint category ranks among the most frequently received and processed complaints reported in NORS. OMB NO.: 0985–0005. However, whether a representative of the Office participates in a resident hearing, as part of the resolution of such a complaint, and in what capacity, depends on a number of factors, including the wishes of the resident, the availability of legal representation for the resident, and the policies and procedures of the Ombudsman program in that State.

Comment: Two commenters indicated support for the proposed language at § 1327.17(a)(2). One commenter indicated that the provision would provide representatives of the Office with unimpeded, private access to residents, noting that in some States, representatives of the Office face challenges gaining access to a resident or having the opportunity to privately communicate with a resident.

Response: We appreciate the supportive comments and note that the relevant provisions are in the final rule at § 1327.19(a)(3).

Comment: One commenter requested more clarity around the term ''regular access.''

Response: We encourage Ombudsman programs to provide residents with access to the Ombudsman program through, among other means, regular visits to facilities. However, we believe creating one national minimum standard for visits to facilities would be unrealistic, given the extremely different variables among States. We strongly encourage the development of minimum standards to provide consumers, providers and others with an expectation of what constitutes regular visits. We also encourage Ombudsman programs to consider that providing ''regular access'' requires more than providing visits to facilities by representatives of the Office. Ombudsman programs should be easily accessible to residents, complainants, and others—including individuals with limited English proficiency—because, among other things, they have multiple methods of communication available to the public (including telephone, email, facsimile, Web site contacts, TTY (text telephone) and other communication services, and mail).

Comment: Two commenters indicated that the proposed language in § 1327.17(a)(4) regarding representing the interests of residents before government agencies and seeking remedies is overlooked or disregarded by many States. The comment suggested that the responsibility needs to be emphasized and stringently enforced by AoA. The commenters indicated that failure by a State to remedy the organizational conflicts that prevent performance of this duty must be resolved immediately, that AoA should create a certification program for Ombudsman programs with an auditing component.

Response: AoA expects that this final rule will help to clarify expectations of State agencies and Ombudsman programs related to this and other duties required by the Act. The Long-Term Care Ombudsman Program is established through Federal grants to State agencies. The State agency must assure AoA that the Ombudsman program is established and carried out consistent with the provisions of the Act. If AoA determines that a State fails to comply with any term of an award, AoA, as the granting agency, has several remedies available to it, including but not limited to wholly or partly suspending or terminating the award. 45 CFR 75.371.

The issue of organizational conflicts, as described in these comments, is more fully discussed at § 1327.21 of the final rule.

Comment: One commenter indicated that the proposed language in § 1327.17(a)(4) and (5) is unclear regarding whether the Ombudsman can override a representative of the Office in its duty to carry out these duties. The commenter indicated that it would be a grave mistake if the Ombudsman is the only one who is able to determine the positions of the Office or if the Ombudsman could prohibit representatives of the Office from taking positions without approval or from taking positions that are inconsistent with those of the Office. The commenter described a State in which the Ombudsman was not engaged with the legislature or government agencies related to resident issues but where local Ombudsman entities have made significant contributions to the interests of residents through their systems advocacy. The commenter indicated that the only reason why the Ombudsman is now able to take public positions in that State is due to the systems advocacy efforts of local Ombudsman entities.

Response: The Act sets out the Ombudsman as the head of the Office. Section 712(a)(2) of the Act. The Ombudsman has the authority to make determinations regarding the positions of the Office, including but not limited to recommendations for changes in laws, regulations and policies. *See* section 712(h)(2) of the Act. We note that there is nothing prohibiting the Ombudsman establishing policies that provide for representatives of the Office to also perform the function of making recommendations, and that the final rule requires procedures that exclude representatives of the Office from any State lobbying prohibitions inconsistent with section 712 of the Act.

However, the duties of the representatives of the Office are to be performed in accordance with the policies and procedures established by the Office and the State agency. Section 712(a)(5)(B) of the Act. Therefore, we believe that it would be inappropriate for this rule to require the State agency or the Ombudsman to permit representatives of the Office to make recommendations which are inconsistent with the positions of the Office. Instead, we conclude that Congress intended that the Ombudsman, as head of the Ombudsman program, to provide leadership to the statewide advocacy efforts of the Office on behalf of long-term care facility residents, including coordination of advocacy efforts carried

out by representatives of the Office. See final rule at § 1327.13(a)(7)(iv) and (b).

Comment: One commenter recommended that the final rule at § 1327.17(a)(4) include a definition of adequate legal representation.

Response: We have addressed this and similar comments in the provisions related to § 1327.15(j) of the final rule.

Comment: One commenter supported the use of the phrase ''if necessary'' in the proposed language that indicates that the representative of the Office shall ''review, and if necessary, comment on any existing and proposed laws, regulations policies and actions . . .'' in § 1327.17(a)(4). The commenter indicated that this provision supports the concept that the Ombudsman is expected to provide comments on behalf of the Office and that representatives of the Office would only comment as necessary as determined by the Ombudsman. The commenter indicated that this provision allows for designation of local Ombudsman entities that may be restricted from certain public policy activities, such as those funded through the LSC.

Response: We appreciate the supportive comment. We note that we have provided a more in-depth discussion of our analysis of lobbying by local Ombudsman entities within LSC-funded entities in the comments related to § 1327.15.

Comment: Two commenters recommended greater specificity regarding what is expected of the Office with respect to the language in section 712(a)(5)(B)(v)(II) of the Act and the proposed language at § 1327.17(a)(5)(ii).

Response: We are available to provide State agencies and Ombudsman programs with technical assistance regarding this provision of the law and regulation, found at § 1327.19(a)(5)(ii) of the final rule.

Comment: Three commenters indicated support for the proposed language at § 1327.17(b). One of these commenters indicated that the provision clarifies that the Ombudsman program serves the resident in complaint investigation and resolution. One commenter indicated that it is important that the Ombudsman program serve resident in a person-centered manner; including where the resident is unable to express wishes but the wishes have been made clear previously, such as in an advance directive. One commenter supported inclusion of phrase ''the Ombudsman and/or the representative of the Office serve the resident of a long-term care facility,'' describing it as a clear statement of whose satisfaction the Ombudsman program is trying to achieve.

Response: We appreciate the supportive comments and note that the relevant provisions are at § 1327.19(b) in the final rule.

Comment: One commenter indicated that a resident should not have to suffer abuse or neglect to benefit from Ombudsman program services.

Response: We agree with this comment; both the proposed rule and final rule support this perspective. In fact, AoA requires Ombudsmen to report on Ombudsman program resolution using numerous types of complaint codes, only a few of which are complaints with abuse, gross neglect, or exploitation codes. OMB NO.: 0985–0005.

We use the language ''including but not limited to a complaint related to abuse, neglect, or exploitation'' in § 1327.19(b)(1) in order to clarify that the Ombudsman program does have a role to play in complaints related to abuse, neglect and exploitation. We have included this language in response to the policies and practices of a few States in which all complaints of abuse, gross neglect or exploitation are immediately referred to protective services, law enforcement, and/or a regulatory agency, with no further Ombudsman program service made available to the resident related to such a complaint. This practice deprives the resident of the services of the Ombudsman program and we intend, through this rule, to signal that such a practice is not an appropriate interpretation of the Act.

Comment: Five commenters recommended that the rule use the term ''neglect'' instead of ''gross neglect'' in § 1327.17(b)(1). One of these commenters indicated that Ombudsman program purview should encompass any complaint of neglect without having to meet additional elements to demonstrate ''gross neglect.'' Another commenter indicated that, by using the term ''neglect,'' the rule would better support the Ombudsman program's ability to resolve potentially dangerous problems before they escalate, describing this as one of the hallmarks of the Ombudsman program.

Response: We agree that working to resolve ''neglect'' complaints are within the purview of the Ombudsman program. We also agree that one of the hallmarks of the Ombudsman program is its ability to resolve potentially dangerous problems before they escalate. To avoid any confusion on this point, we have omitted the term ''gross'' in the final rule at the corresponding provision, § 1327.19(b)(1).

Comment: Six commenters indicated that the reference in § 1327.17(b)(1) that Ombudsman program investigation includes investigation of abuse complaints conflicts with their State's requirement to separate the job duties of protective services from duties of representatives of the Office. Three of these commenters felt that, if the Ombudsman program is responsible for investigation of abuse, this is a conflict of interest. One of these commenters indicated that the provision would negatively impact the integrity of the Ombudsman program as the provision would require the Ombudsman program to substantiate abuse cases in conflict with the State protective services functions and the advocacy function of the Ombudsman program.

Response: The Act requires the Ombudsman program to ''identify, investigate, and resolve complaints that . . . relate to action, inaction or decisions, that may adversely affect the health, safety, welfare, or rights of the residents.'' Section 712(a)(3)(A) and (5)(B)(iii) of the Act. Abuse, neglect and exploitation of residents are among the complaints that fall within this purview. AoA requires Ombudsmen to report in NORS the types of complaints processed by the Ombudsman program, specifically including complaint codes and definitions related to abuse, gross neglect and exploitation. ''Long-Term Care Ombudsman Program Complaint Codes,'' OMB 0985–0005, at pp. 1–3, 17–18.

The services of the Ombudsman program are distinct from, and as indicated in § 1327.21(a), at times may conflict with the responsibilities of protective services. An individual resident, may, for example, have a complaint about protective services or may seek support from the Ombudsman program for a goal that is inconsistent with his or her protective services plan.

Some of the functions of the Ombudsman program use the same terms, such as ''investigation,'' which are not always used for consistent purposes among Ombudsman programs, protective services, licensing and regulatory agencies, or other programs. This may result in confusion regarding the appropriate role of such programs. When an Ombudsman program receives any complaint (including, but not limited to, an abuse-related complaint), its goal is to resolve the complaint to the resident's satisfaction, but not to substantiate whether the abuse or other allegation occurred. The Ombudsman program does not have a duty to collect sufficient evidence to meet the higher legal standards of proof that protective services, licensing or regulatory

agencies, or law enforcement may need to meet their respective purposes. The Ombudsman program investigates solely for the purpose of gathering necessary information to resolve the complaint to the resident's satisfaction, not to determine whether any law or regulation has been violated for purposes of a potential civil or criminal enforcement action.

With the Ombudsman program fulfilling its duties, the priorities and interests of the individual resident can be supported and advocated for. If the protective services and other government systems charged with taking protective or enforcement actions are not providing the outcomes that serve the health, safety, welfare or rights of residents, the Ombudsman program is available to advocate for improvements to the system. Therefore, it is critically important that each of these agencies is able to fully and distinctly fulfill their duties.

Comment: One commenter indicated that the proposed language is suited to States where the Ombudsman program is the finder of fact for abuse. The commenter recommended that we add language to include that the Ombudsman program should report abuse to the State entity which is the finder of fact for abuse complaints.

Response: We intend, through this rule, to clarify that the Ombudsman program is not appropriately the finder of fact for abuse complaints. The requirements related to Ombudsman program referral of abuse complaints to other agencies for substantiation of the facts are set forth in § 1327.19(b)(3)–(8).

Comment: Three commenters indicated support for the person-centered approach of the proposed language in § 1327.17(b)(1). One of these commenters indicated that the language strikes an appropriate balance between ensuring resident preference and encouraging family involvement (by using the term ''guardian and other legal representative''). Another commenter indicated that the person-centered approach driven by the wishes and goals of an individual resident is appropriate and necessary for individualized complaints. Another commenter indicated that the proposed rule is helpful in clarifying that perception of the resident and wishes of the resident are paramount for the Ombudsman program.

Response: We appreciate the supportive comments and note that the corresponding provision is at § 1327.19(b)(1) in the final rule.

Comment: One commenter indicated that not all complaints are individual and recommended that the final rule should support the broader authority to advocate for residents for facility-wide complaints or observations. The commenter indicated that some representatives of the Office do not believe they have authority to respond to complaints regarding facility-wide problems without the written consent of the resident.

Response: We agree with the commenter that some complaints may be facility-wide. It is not our intent to imply otherwise with the proposed language. We note that some complaints may impact multiple residents, even if they are not relevant to the facility as a whole. We have added language in the final rule at § 1327.19(b)(1) in order to clarify that the Ombudsman or representative of the Office may identify, investigate and resolve a complaint impacting multiple residents or all of the residents who live in a facility.

We note that the representative of the Office may be considered a complainant. In order to avoid any confusion on this point, we have modified the language in the final rule at § 1327.19(b)(2) to clarify that the complainant may include the Ombudsman or representative of the Office. We further note that the provisions related to adequate evidence of resident or resident representative consent are found at § 1327.19(b)(4).

Comment: One commenter indicated appreciation for the resident-centered focus of the proposed language at § 1327.17(b)(2).

Response: We appreciate the supportive comment and note that the corresponding provision is at § 1327.19(b)(2) in the final rule.

Comment: One commenter indicated that the Ombudsman program should be able to initiate as well as receive complaints.

Response: We agree with the comment; the proposed language was not intended to limit or prohibit the Ombudsman or representative of the Office from initiating a complaint (*i.e.* from being the complainant) where they pro-actively identify a complaint that needs Ombudsman program intervention. In NORS, AoA requires Ombudsmen to report on the number of ''Ombudsman/ombudsman volunteer'' complainants among the categories of complainants for cases closed by the Ombudsman program. OMB NO.: 0985–0005. In order to avoid any confusion on this point, we have modified the language in the final rule at § 1327.19(b)(2) to clarify that the complainant may include the Ombudsman or representative of the Office.

Comment: One commenter indicated that the proposed language ''informed consent, wishes, or perspectives'' at § 1327.17(b)(2)(i) may be confusing and difficult to implement. The commenter recommended that we omit the term ''wish'' and consider omitting ''perspective,'' noting that these terms may be inconsistent with State surrogate decision-making rules.

Response: We agree with this recommendation and have amended the phrase at § 1327.19(b)(2)(i) to omit ''wishes, or perspective.''

Comment: One commenter recommended the addition of a statement that, where a resident has a court-appointed guardian or conservator, the resident may have already been determined unable to give informed consent, so the Ombudsman program should check the extent of the court order. The commenter recommended that, regardless of whether the resident has a representative, the right to participate in their care and resolution of a complaint should be supported by the Ombudsman program, since the greater the involvement of the resident in the resolution of the complaint, the higher the likelihood of its success.

Response: We agree with these recommendations and have made the following revisions to the final rule as a result:

(1) We have added language at § 1327.19(b)(2) that requires the Ombudsman or representative of the Office to support and maximize resident participation in the process of resolving a complaint.

(2) We have added a new paragraph at § 1327.19(b)(2)(iv) to clarify that the Ombudsman or representative of the Office must ascertain the extent of the authority that has been granted to the resident representative when determining whether to rely on a resident representative's communications or determinations.

Comment: Three commenters indicated that the terms ''legal representative'' and ''resident representative'' and ''guardian'' are used inconsistently and recommended further clarification of the terms.

Response: In the final rule, we have used the term ''resident representative'' consistently and have defined the term at § 1327.1.

Comment: One commenter recommended revising the proposed language to replace the word ''or, where'' at § 1327.17(b)(2)(i) with ''and in the case where.'' The commenter indicated that the change will make sure that both the resident and the resident's representative viewpoints are to be

considered. Without the change, the commenter indicated that the representative of the Office could choose to consult with the resident or the resident representative but might omit consultation to the resident.

Response: We have amended the corresponding § 1327.19(b)(2)(ii) in the final rule, replacing the ''or, where'' with ''and, if'').

Comment: One commenter recommended that, since advising the resident of his or her rights does not require communication of informed consent, the ''or'' in proposed § 1327.17(b)(2)(i)(D) should be changed to an ''and'' so that every resident is advised of his or her rights.

Response: We believe that the suggested language helps to clarify the intent of AoA and have amended the corresponding provision at § 1327.19(b)(2)(ii)(D) accordingly.

Comment: One commenter indicated support for the proposed language at § 1327.17(b)(2)(i)(C) regarding reporting of allegations to other appropriate agencies, but recommended that the provision be amended to include a reference to the statutory or regulatory parameters for disclosure of resident identifying information.

Response: We have amended the language at § 1327.19(b)(2)(ii)(C) in the final rule to indicate that ''Such report and disclosure shall be consistent with paragraph (b)(3).''

Comment: Two commenters recommended that we add clarity that the representative of the Office may investigate a complaint even where the resident is unable to provide consent and has no resident representative. One of the commenters indicated that, as proposed, the rule implies that the representative of the Office may not take action unless the complaint relates to an allegation of abuse, neglect, or exploitation. The other commenter indicated that this authority is implied in the provision related to resolution at § 1327.17(b)(2)(ii) but needs to be explicitly stated.

Response: We agree that explicit statement of this authority would be helpful and note that it is consistent with the ''Procedures for Access'' provision of the Act which provides that the State shall ensure that representatives of the Office shall have ''appropriate access to review the medical and social records of a resident . . . if the resident is unable to consent to the review and has no legal representative.'' Section 712(b)(1)(B)(i)(II) of the Act. We have modified the corresponding provision at § 1327.19(b)(2)(iii) in the final rule accordingly.

Comment: Eight commenters expressed concerns related to the use of the ''best interest'' standard referenced in several places in the proposed language of § 1327.17(b). One of these commenters recommended that, in situations where the resident is unable to communicate informed consent, AoA should require that the Ombudsman program to attempt to obtain information about what the resident had expressed prior to being unable to communicate or having diminished capacity, or alternatively determine what the resident would have wanted, instead of using a ''best interest'' standard. Two commenters recommended that we use a ''substituted judgment'' or ''substitute decision making'' standard instead of a ''best interest'' standard in the final rule. One commenter indicated that the ''best interest'' standard weakens the relationship between the resident and the representative of the Office in their capacity as resident advocate, does not support resident choice, and will weaken the resident's voice. Four commenters indicated that ''best interest'' is subjective and could be applied inconsistently. Several commenters recommended that we add an objective framework for determining ''best interest.'' One commenter recommended that, if we use the ''best interest'' standard, that we link its use to the safety of the resident.

Response: We agree with the commenters' concern that Ombudsman programs should be cautious in using a paternalistic ''best interest'' standard, as opposed to a ''substituted judgment'' standard which is more consistent with the person-centered focus of the Ombudsman program. We agree that, where evidence exists of a resident's previous expressions of values and choices or evidence of what the resident would have wanted, a ''substituted judgment'' standard is preferable. In light of this comment, in both § 1327.19(b)(6) and (7), we have added the language: ''The Ombudsman or representative of the Office has no evidence indicating that the resident would not wish a referral to be made.''

However, when the Ombudsman or representative of the Office has no evidence to rely on, and has no resident representative available or appropriate, we believe that the Ombudsman or representative of the Office must consider what action is in the ''best interest'' of the resident. Therefore we have retained the provisions indicating that the Ombudsman or representative of the Office may make a referral, where all of the other provisions are met and where the Ombudsman or representative of the Office has reasonable cause to believe that it is in the best interest of the resident to make a referral. See § 1327.19(b)(6)(v) and (7)(iv).

We understand that determining ''best interest'' does necessarily require some judgment, but we believe that Ombudsmen and representatives of the Office are required to use sound judgment in their work on a frequent basis. We further note that Ombudsman programs should be familiar with the use of this standard since the Act provides for use of the ''best interest'' standard in the situation where ''a representative of the Office has reasonable cause to believe that the guardian is not acting in the best interests of the resident.'' Section 712(b)(1)(B)(ii)(II) of the Act. Moreover, the ''best interest'' standard is commonly used in ethical and professional literature. We are available to provide technical assistance regarding its use in the context of Ombudsman program practice.

Comment: One commenter recommended language to ensure that the Ombudsman program can investigate and take action on a complaint in addition to disclose the resident name to other agencies.

Response: We read § 1327.19(b)(1) and (2) in the final rule to provide authority to the Ombudsman program to investigate and take action on a complaint in addition to disclosing the resident name to other agencies.

Comment: One commenter recommended that we use the term ''perspective of resident'' regarding a complaint rather than ''perception of resident'' in the proposed language at § 1327.17(b)(2)(i)(A), arguing that the term ''perception'' is vague. Another commenter recommended the use of the term ''description of the problem.''

Response: We believe that ''perspective'' is a more appropriate term in this context and have adopted this change in the final rule at § 1327.19(b)(2)(ii)(A).

Comment: One commenter recommended that we further explain what evidence of satisfaction might be appropriate in order for a representative of the Office to determine that a complaint has been resolved. The commenter indicated that an example of evidence could be an affirmative response to a standard question.

Response: We agree that an affirmative response to a question could be evidence of satisfaction of resolution of a complaint. We do not believe that a regulation is necessary in order to provide examples of evidence. However, a State agency or Ombudsman may

choose to develop policies to provide further specificity regarding adequate evidence of satisfaction for purposes of complaint resolution.

Comment: One commenter recommended that anonymous complaints should be allowed in order to protect resident confidentiality.

Response: Nothing in the proposed or final rule would limit the ability of the Ombudsman program to receive complaints from anonymous sources. Currently, the AoA requires States, through NORS, to report the types of complainants, including anonymous complainants, for closed cases of the Ombudsman program. OMB NO.: 0985–0005. We note, however, that the Ombudsman program must protect against inappropriate disclosure of resident and complainant-identifying information regardless of whether the complainant wishes to remain anonymous. *See* § 1327.11(e)(3).

Comment: One commenter recommended that we add guidance to ensure that representatives of the Ombudsman program report complaint results to the complainant if known and other than the resident. The commenter indicated that family members and other complainants have criticized the Ombudsman program for not providing a report back to the complainant, leading them to incorrectly believe that the Ombudsman program failed to process the complaint.

Response: We appreciate that complainants may wish to understand the results of their complaint. While we have not required this in the final rule, we note that Ombudsmen and State agencies, in developing Ombudsman program policies and procedures, may choose to provide guidance to representatives of the Office on the appropriateness of providing follow up with complainants consistent with the disclosure limitations of the Act and this final rule. We note that the guidance might also apply to follow up with resident representatives.

Comment: One commenter recommended that we address the question of appropriate Ombudsman program response where a resident does not wish the representative of Office to act on a complaint.

Response: We agree that the Ombudsman program should follow the direction of the resident regarding whether to act on a complaint. We believe that this issue is adequately addressed in the final rule at § 1327.19(b)(2)(ii), which requires the Ombudsman or representative of the Office to determine and follow resident direction through every step of the complaint process.

Comment: One commenter indicated that the introductory wording of the proposed rule at § 1327.17(b)(2) is confusing and recommended that we use ''Regardless of the source of the complaint.''

Response: We have adopted the recommended language at § 1327.19(b)(2) in the final rule.

Comment: Four commenters indicated support for the proposed language in § 1327.17(b)(3). One of these commenters indicated that the proposed language is helpful in clarifying that the Ombudsman and representatives of the Office are not mandated reporters and that many States have had long-standing tensions around this question. Another commenter indicated that this is helpful in determining the circumstances under which it is appropriate for the Ombudsman program to share information with oversight agencies. Another commenter indicated that the proposed rule empowers residents to retain control over their own information while providing the Ombudsman with discretion in instances when the resident is at risk due to abuse but the resident lacks capacity (or a representative available) to provide consent.

Response: We appreciate the supportive comments and note that the relevant provision is found at § 1327.19(b)(3) in the final rule.

Comment: One commenter recommended deleting or modifying the proposed provision at § 1327.17(b)(3)(ii) to include that, where adult protective services exists, the representative of the Office can and should advocate on the resident's behalf as long as the individual provides consent.

Response: We believe the final rule at § 1327.19(b) adequately describes the appropriate relationship between the Ombudsman program and adult protective services, including the circumstances in which Ombudsman program referrals may, may not, or must be made to adult protective services or other entities.

Comment: Four commenters recommended that we require that the Ombudsman or representatives of the Office report suspected abuse. One of these commenters indicated that the Ombudsman program has a duty to all residents of a facility, not only one resident. Two commenters indicated that reporting could protect other residents in some circumstances. One commenter indicated that, by not reporting, the representative of the Office would be subject to liability if the suspected abuse put other residents at risk. One commenter indicated deep concern if the Ombudsman program is unable to fulfill its very purpose where the representative of the Office is aware of allegations of abuse but is forced to be silent if informed consent is not obtained.

Response: Through the strict disclosure limitations within the Act at section 712(d)(2)(B), Congress has indicated its intent for the Ombudsman program to be a safe place for residents to bring their concerns, knowing that their information will not be disclosed without their consent (or the consent of their representative). Through numerous reauthorizations of the Act, Congress has never chosen to provide an exception for abuse reporting in the Act. While we have provided, in § 1327.19(b) of the final rule, limited exceptions for reporting resident-identifying information where residents are unable to communicate informed consent, we do not believe that the Act provides us with the authority to promulgate a rule that would permit reporting of a resident's identifying information when the resident (or resident representative) who is able to communicate informed consent has not done so. Nor would we support a rule that would permit such reporting, as a matter of policy

Residents reaching out for assistance on an abuse, neglect or exploitation complaint may well want their information conveyed by the Ombudsman program to protective services, the licensing and regulatory agency, and/or law enforcement; indeed, the final rule clarifies that the Ombudsman program has a duty to make such a referral when requested by the resident (see § 1327.19(b)(3)(i)). The Ombudsman program may inform complainants who report suspected abuse that they may (and, under some circumstances, must) report the complaint information to protective services, the licensing and regulatory agency and/or law enforcement. The Ombudsman program may advise the resident of the appropriate role and limitations of the Ombudsman program, assist the resident in understanding his or her options, and encourage the resident to report—and/or consent to the Ombudsman program referral—to protective services, the licensing and regulatory agency and/or law enforcement.

However, the Ombudsman program is designed to represent the interest of the resident (and not necessarily the interest of the State) in order to support the resident to make informed decisions about the disclosure of his or her own information. Residents may be concerned about retaliation if their concern is known or have other reasons why they do not want the Ombudsman

program to share their information. While Congress intends for the Ombudsman program to resolve complaints related to the health, safety, welfare and rights of residents, and while that intent logically includes protection from abuse, Congress provided the resident—and not the Ombudsman program—with the authority to make the decision about when and where the resident's information can be disclosed.

Comment: One commenter indicated that the proposed rule should have included provision for the consent of the resident's legal representative at § 1327.17(b)(3).

Response: We agree that this recommendation provides further clarity so have added ''or resident representative'' in § 1327.19(b)(3)(i),(ii) of the final rule.

Comment: One commenter indicated that, by giving a short list of types of assistance (*i.e.* regulatory, protective, or law enforcement) available under proposed rule § 1327.17(b)(3)(i), the provision implies that the Ombudsman program could not contact various other entities who could assist the resident and whom the resident or resident's representative wishes to contact.

Response: We believe that the language in § 1327.19(b)(3) adequately provides the Ombudsman program with discretion to provide information to other agencies for ''other purposes'' (*i.e.* not limited to regulatory, protective, or law enforcement purposes), where disclosure limitations are met. The reference to regulatory, protective, or law enforcement assistance in § 1327.19(b)(3)(i) is to require the Ombudsman program to make referrals and disclose information in certain circumstances.

To provide further clarity, as a result of this recommendation, we have added a new provision in the final rule at § 1327.19(b)(3)(ii). This provision provides authority for the provision of contact information and/or referrals to other types of entities than those indicated in paragraph (b)(3)(i).

Comment: One commenter indicated that the proposed language at § 1327.17(b)(3)(ii) is an appropriate reminder that the Ombudsman program must respect the resident's wishes.

Response: We appreciate the supportive comment and note that this provision is now in a newly numbered provision in the final rule at § 1327.19(b)(3)(iii).

Comment: One commenter recommended that the proposed language at § 1327.17(b)(3)(ii) should extend to the resident's representative when a resident lacks capacity.

Response: We agree with this recommendation and have added the phrase: ''(or, in the case where the resident is unable to communicate informed consent, the wishes of the resident representative)'' into newly numbered provision in the final rule at § 1327.19(b)(3)(iii).

Comment: One commenter recommended that the reports referenced in the proposed language at § 1327.17(b)(3)(ii) not be limited to suspected abuse, gross neglect or exploitation.

Response: We believe that § 1327.19(b)(3) adequately provides authority for the Ombudsman program to provide information regarding any type of complaint to another appropriate entity so long as the disclosure requirements are adhered to. The provision in newly numbered § 1327.19(b)(3)(iii) of the final rule is intentionally limited in order to clarify this provision specifically related to abuse, neglect, or exploitation reporting, given need for additional clarity on this point.

Comment: One commenter recommended that the final rule at § 1327.17(b)(3) expressly state that the confidentiality and disclosure provisions in the Act preempt State mandatory reporting laws.

Response: The Act specifically requires the State agency to establish the procedures for the appropriate disclosure of files maintained by the Ombudsman program, as a condition of receiving the grant to operate the Ombudsman program (Section 712(d)(1) of the Act) and to assure that it will carry out the provisions of section 712 in its State Plan on Aging (Section 307(a)(9) of the Act). We believe that the final rule appropriately describes the Ombudsman program duty to carry out (as well as the State duty to assure adherence to) the disclosure provisions in the Act.

Comment: One commenter recommended that the final rule expressly state that the Ombudsman has sole discretion over the release of the program's records and files, not only control over the release of files with resident or complainant identities.

Response: We believe the language at § 1327.11(e)(3)(i), regarding Ombudsman discretion over release of information maintained by the Ombudsman program, addresses this comment.

Comment: Three commenters recommended that we add language to § 1327.17(b)(3) to specifically include licensing agencies and protection and advocacy systems.

Response: We agree that licensing agencies and protection and advocacy systems are among the other agencies to which an Ombudsman program may provide information as appropriate, but do not see a need to amend the provision in order to specifically list two examples of agencies potentially relevant to this provision.

Comment: One commenter indicated support for the proposed language at § 1327.17(b)(4).

Response: We appreciate the supportive comment and note that the corresponding provision is at § 1327.19(b)(4) in the final rule.

Comment: One commenter recommended that informed consent can be provided orally or in writing without preference. The commenter indicated that oral consent allows the representative of the Office an opportunity to act more efficiently than waiting for exchange of written consent documents.

Response: We do not believe that the proposed language implied a preference for the method of communication for consent.

Comment: One commenter indicated that the proposed language at § 1327.17(b)(4) appears to be a restatement of § 1327.15(a)(2)(iii)(B)(2), which establishes the range of options for communication of informed consent, and indicated that the reason for restatement in this section is unclear.

Response: This provision (in § 1327.19(b)(4) of the final rule) is not intended to be a duplication, but rather a consistent requirement regarding disclosure within (1) requirements related to development of Ombudsman program policies and procedures (in the final rule at § 1327.11(e)(3)(ii)) and (2) provisions related to the duties of the representatives of the Office and local Ombudsman entities (in the final rule at § 1327.19(b)(4)). While the parameters related to appropriate disclosure found in these provisions are consistent (and therefore may appear redundant), the purposes of these sections are distinct.

Comment: One commenter indicated that the ability of an individual to communicate consent may be difficult to ascertain and recommended inclusion of language at § 1327.17(b)(4) that permits visual consent, such as by use of video or other visual means, nods, blinks of eye, finger tapping, etc.

Response: We agree that residents with varying abilities may communicate consent in a number of ways. This is why we did not limit communication to verbal communication and have added the use of auxiliary aids and services as an appropriate aid to communication. We believe that adoption of this

recommendation appropriately adapts the services of the Ombudsman program to accommodate individuals with a variety of disabilities. In light of this recommendation, we have added ''visually,'' to the final rule wherever ''consent orally'' is found.

Comment: Seven commenters indicated support for the proposed language at § 1327.17(b)(5). One of these commenters indicated that the specificity of the proposed language is helpful in setting out what a representative of the Office may do if a resident is unable to communicate informed consent and has no authorized representative. The commenter indicated that the provision appropriately appreciates the central role of the resident in giving consent while recognizing the need for a process when the resident lacks capacity to provide consent. One commenter applauded the clarification that representatives of the Office are able to speak for vulnerable elders who cannot speak for themselves or have anyone available or willing to speak for them.

Response: We appreciate the supportive comments and note that the corresponding language is at § 1327.19(b)(6)) in the final rule.

Comment: One commenter indicated that use of the term ''unable to communicate informed consent'' is problematic in determining when a representative of the Office should disclose identifying information of a resident, potentially weakening the core client advocate role of the Ombudsman program. The commenter indicated that it is paramount that the representative of the Office obtains permission from the resident prior to identifying them.

Response: We agree that the representative of the Office must obtain consent from the resident whenever possible prior to identifying them; this requirement is consistent throughout this final rule. However, without the opportunity to disclose resident-identifying information, the Ombudsman program may be powerless to work with the facility or other agencies that may be needed in order to protect the health, safety, welfare or rights of the resident. In these cases, we disagree that taking such action weakens the core client advocate role of the Ombudsman program.

Comment: Two commenters indicated support for the proposed language at § 1327.17(b)(6). One commenter indicated that the proposed rule helps resolve the logical gap, contained in the Act, in that it allows the representative of the Office to access the records of an incompetent resident who has no guardian or legal representative but does not say what the representative of the Office can do with that information.

Response: We appreciate the supportive comments and note that the corresponding provision is at § 1327.19(b)(6) in the final rule.

Comment: One commenter indicated appreciation for the clarification of the exception for the disclosure of resident identifying information in the proposed language at § 1327.17(b)(6)–(8). The commenter indicated that this provision will promote protection of vulnerable adults and enhance the capacity of the Ombudsman program to fulfill its duties to protect the health, safety, welfare, and rights of residents.

Response: We appreciate the supportive comment and note that the corresponding provision is at § 1327.19(b)(6)–(8) in the final rule.

Comment: One commenter indicated that requiring approval of the Ombudsman for disclosure in § 1327.17(b)(6) is appropriate.

Response: We appreciate the supportive comment and note that the corresponding provision is at § 1327.19(b)(6) in the final rule.

Comment: Eight commenters indicated that obtaining approval from the Ombudsman for disclosure in § 1327.17(b)(6)-(8) might delay referrals to law enforcement, adult protective services or the facility and suggested elimination of this requirement. One of these commenters indicated that this would especially be burdensome in a large State, recommending that standards be developed by the Office requiring the representative of the Office to notify the Ombudsman of the report. One of these commenters suggested that, alternatively, the final rule should require a time limit for Ombudsman decision on the approval. One of the commenters indicated that it is not practical, necessary or efficient to require approval of the Ombudsman for such disclosure.

Response: We believe that the circumstances in which disclosure is made without resident or resident representative permission, as described in § 1327.19(b)(6)–(8) of the final rule, should be made with great caution. Ideally, the Ombudsman would be made aware of these circumstances and provide or deny approval. However, we understand that, particularly in States with large resident populations, this requirement could foreseeably create delays that could inhibit the ability of the representative of the Office, as well as other appropriate agencies, to protect the health, safety, welfare or rights of residents.

Therefore, we have added the option, in § 1327.19(b)(6) and (8), for the representative of the Office to follow the relevant policies and procedures of the Office regarding disclosure and added a new paragraph at § 1327.19(b)(9) to provide additional clarity related to these policies and procedures of the Ombudsman program disclosure approval process.

The final rule maintains the requirement for Ombudsman approval, however, in § 1327.19(b)(7) in circumstances where the resident has a resident representative who is not acting in the best interest of the resident. This requirement is maintained because it is consistent with the statutory requirement for the representative of the Office to obtain Ombudsman approval prior to accessing resident records when a resident's guardian is not acting in the resident's best interest. Section 712(b)(1)(B)(ii) of the Act. Since these circumstances are likely to be less frequent, and since the provision related to records access already exists in the law so should be the current practice in States, we do not believe that this provision will be burdensome, even to States with large resident populations.

Comment: Two commenters recommended that the final rule compel Ombudsman program disclosure in the circumstances set forth in the proposed language at § 1327.17(b)(6), replacing the ''may refer'' with ''shall refer.''

Response: The Act indicates that determinations regarding disclosure of Ombudsman program information may be disclosed only at the discretion of the Ombudsman or the person designated by the Ombudsman. Section 712(d)(2)(A) of the Act. We believe that maintaining the proposed language ''may refer'' in the final rule at § 1327.19(b)(7) reflects this statutory provision, so have not made the recommended change.

Comment: One commenter recommended that the authority for the Ombudsman program to act in the circumstances described in § 1327.17(b)(6) not be limited to circumstances of abuse, gross neglect, or exploitation, indicating that the Act is not similarly limiting.

Response: We agree with this recommendation and have instead more closely reflected the statutory language from section 712(a)(3)(A)(ii) and (5)(B)(iii) of the Act, to read ''has reasonable cause to believe that an action, inaction or decision may adversely affect the health, safety, welfare, or rights of the resident'' in the final rule at § 1327.19(b)(6).

Comment: One commenter indicated that the P&A system should be explicitly included as an appropriate referral in § 1327.17(b)(6),(7) and (8).

Response: As ACL administers funds to States for P&A systems, we are aware that they provide critically important services, as do other entities which are also not specified in this provision. We are choosing to retain the broad description in the final rule at § 1327.19(b)(6),(7), and (8) regarding referrals for ''access to administrative, legal, or other remedies,'' rather than specifying any particular entity or service provider. In addition, the final rule requirements at § 1327.13(h)(4) for the Ombudsman to coordinate with P&A systems will support these referrals.

Comment: One commenter recommended that we replace the word ''may'' with ''shall'' in the proposed language in § 1327.17(b)(6) and (7): ''the procedures for disclosure may provide.'' The commenter indicated the need for consistency across Ombudsman programs.

Response: We have accepted this recommendation in the final rule at § 1327.17(b)(6) and (7). While we have maintained the discretion of the Ombudsman regarding when to make such referrals, we agree that it is appropriate to require these policies and procedures regarding disclosure in order to promote quality ombudsman services for residents.

Comment: Two commenters indicated support for the proposed language at § 1327.17(b)(7). One commenter indicated that the Act contains a logical gap in that it allows the representative of the Office to access the records of an incompetent resident over the protests of a guardian or legal representative who is not acting in the resident's best interest, but does not say what the representative of the Office can do with that information.

Response: We appreciate the supportive comments and note that the corresponding provision in the final rule is § 1327.19(b)(7).

Comment: One commenter recommended that the authority for the Ombudsman program to act in the circumstances described in § 1327.17(b)(7) not be limited to circumstances of abuse, gross neglect, or exploitation, indicating that the Act is not similarly limiting.

Response: We agree with this recommendation and have instead more closely reflected the statutory language from section 712(a)(3)(A)(ii) and (5)(B)(iii) of the Act, to read ''a resident representative who has taken an action, inaction or decision that the Ombudsman or representative of the Office has reasonable cause to believe may adversely affect the health, safety, welfare, or rights of the resident'' at § 1327.19(b)(7).

Comment: Two commenters indicated that the final rule should compel Ombudsman program disclosure in § 1327.17(b)(6), replacing the ''may'' with ''shall.'' One of the commenters indicated that it is inconceivable that reporting to protective services and/or law enforcement would be anything but in the resident's best interest.

Response: The Act indicates that determinations regarding disclosure of Ombudsman program information may be disclosed only at the discretion of the Ombudsman or the person designated by the Ombudsman. Section 712(d)(2)(A) of the Act. We believe that maintaining the proposed language ''may refer'' in the final rule at § 1327.19(b)(7) reflects this statutory provision, so have not made the recommended change.

Comment: Five commenters indicated support for the proposed provision at § 1327.17(b)(8). One of these commenters indicated agreement with the process, appreciation of the detail and careful weighing of competing values reflected in the proposed rule, and expectation that the proposed rule will give the Ombudsman program clear guidance in handling these difficult situations.

Response: We appreciate the supportive comments and note that the corresponding provision in the final rule is § 1327.19(b)(8).

Comment: Seven commenters recommended that the final rule should require implementation of policies that require the representative of the Office who witnesses abuse, gross neglect, or exploitation to report the observation. Several of these commenters indicated that, if any representative of the Office personally witnesses an event and takes no action, it gives the perpetrator permission to continue the behavior, and that the witness has the responsibility to report as a firsthand observer of the incident. One of the commenters indicated that reporting is not a violation of the Act since, by witnessing the event, the representative of the Office has not been provided information from a third party.

Response: Both the proposed language and the final rule clarify that the procedures for disclosure shall provide that—where the Ombudsman or representative of the Office personally witnesses suspected abuse, neglect or exploitation of a resident—the representative of the Office shall follow the direction of the resident or resident representative. We believe this approach is consistent with the Act which permits disclosure of resident identifying information only with consent or in other very limited situations.

The Act is silent on how to best handle this situation when the Ombudsman or representative of the Office personally witnesses an incident and the resident at issue is unable to communicate informed consent (and has no resident representative available to do so). In these cases, we have described the circumstances in the final rule, at § 1327.19(b)(8), that the Ombudsman or representative shall refer the matter and disclose the identifying information of the resident to the facility and/or appropriate agency for substantiation of abuse and may refer the matter to other appropriate agencies.

Comment: One commenter indicated that, if the representative of the Office witnesses an issue, he or she must have the authority to initiate a complaint.

Response: There is nothing in the rule that would limit the ability of the representative of the Office to initiate a complaint (*i.e.* open a case with one or more complaints). This rule at § 1327.19(b)(8) addresses procedures for disclosure of resident-identifying information in the work to resolve such a complaint.

Comment: Five commenters indicated that the proposed language at § 1327.17(b)(8) appears to require representatives of the Office to be mandatory abuse reporters, at least in certain circumstances. One of these commenters described this as contrary to their State law. Two of these commenters indicated mandated reporting runs counter to the principles of the Ombudsman program and its unique role as resident advocate under the Act. Two of these commenters requested clarification to ensure that representatives of the Office are not mandated reporters in facilities where the resident has the ability to grant or deny consent. One commenter expressed that personally witnessing abuse versus being told or otherwise discovering evidence of abuse is an artificial distinction.

Response: In the final rule at § 1327.19(b)(8), we describe circumstances when an Ombudsman or representative of the Office has personal knowledge of circumstances that others may not have. This information is likely relevant to the ability of the facility to protect the resident and to the ability of the official finder of fact to determine whether the alleged abuse, gross neglect or exploitation can be substantiated.

When an Ombudsman program receives any complaint (including, but not limited to, an abuse-related complaint), its goal is to resolve the complaint to the resident's satisfaction, but not to serve as the official finder of

fact to substantiate whether the abuse or other allegation occurred. In most States, the substantiation decision is made either by adult protective services and/or the licensing and regulatory agency. By contrast, when a report has been made to the Ombudsman program or when a representative of the Office discovers information through review of resident records, someone else is necessarily aware of the circumstances and can (and in many instances is mandated to) report this information to the agency which is responsible for substantiating abuse. Therefore, absent an indication from the resident or resident representative that there is not consent for this information to be shared, we believe that the representative of the Office should be required to disclose such information.

Comment: One of the commenters recommended that the proposed language at § 1327.17(b)(8) should require that reporting of Ombudsman program information remain within the discretion of the Ombudsman.

Response: For the reasons mentioned above, we believe that the disclosure procedures should require reporting in the narrow circumstances provided in the final rule at § 1327.19(b)(8). We do, however, provide for Ombudsman discretion in determining whether the required reporting is in the best interest of the resident in § 1327.19(b)(8)(ii)(B). We further provide for Ombudsman discretion regarding referring or reporting to other agencies for regulatory oversight, protective services, access to remedies and/or law enforcement in § 1327.19(b)(8)(iii).

Comment: One commenter requested definition of the term ''suspected abuse, gross neglect, or exploitation'' since States have differing interpretations and definitions of these terms. Some commenters recommended that we omit the term ''gross'' from the term ''gross neglect.''

Response: The rationale for our maintaining the use of ''gross neglect'' in the final rule at § 1327.19(b)(8)(iii) is consistent with the rationale used in AoA's instructions for Ombudsman program reporting in the NORS. OMB NO.: 0985–0005. AoA provides a separate code for complaints of ''gross neglect'' (defined as ''willful deprivation by a person, including a caregiver, of goods or services that are necessary to avoid physical harm, mental anguish, or mental illness''). This distinction in NORS instructions is intended to differentiate ''gross neglect'' from other complaint codes which the Ombudsman program receives related to facility care and practices, many of which could also reasonably be considered ''neglect.''

Comment: One commenter recommended deletion of proposed paragraph § 1327.17(c), questioning how realistic it is to expect local Ombudsman entities to coordinate with this long list of programs and agencies.

Response: We have accepted this recommendation by deleting this provision and incorporating into the final rule a responsibility for the Ombudsman to ''support appropriate local Ombudsman entity coordination'' with the listed entities at § 1327.13(h).

Comment: Several commenters indicated support for the proposed language at § 1327.17(d). Some commenters indicated that providing information and speaking directly to legislators, including making recommendations for changes to laws, are critical to the Ombudsman program work. Some commenters indicated that this provision supports the premise that the Ombudsman has the ability to act independently, even if the target of the advocacy is the State government itself.

Response: We appreciate the supportive comments and note that the corresponding provision is found at § 1327.13(a)(7)(vii).

Comment: One commenter indicated that they foresee challenges in States upholding the requirement related to lobbying activities found in the proposed language at § 1327.17(d).

Response: The Act is clear that Congress intends for the Office to have the authority to make recommendations regarding changes to laws, regulations, and policies pertaining to the interests of long-term care facility residents. This is both a required function of the Ombudsman (at section 712(a)(3)(G) of the Act) and an expectation of the State agency to require of the Office (section 712(h)(2) of the Act). AoA's intent in the final rule at § 1327.13(a)(7)(vii) is to clarify that by performing these statutorily required functions, the Office is not violating the federal lobbying restrictions of 45 CFR part 93.

Comment: Two commenters recommended that we add a provision to § 1327.17 which adds penalties and a process for reporting to AoA for interference with the Ombudsman program.

Response: While we have not included penalties in this provision, we have addressed interference, retaliation and reprisals, including sanctions for interference, in the final rule at § 1327.15(i).

H. Conflicts of Interest (§ 1327.21)

In § 1327.21, AoA provides clarification to State agencies and Ombudsman programs regarding the process of identifying conflicts of interest with the Ombudsman program, as required by the Act. This section provides examples of conflicts of interest at both the organizational and individual levels. It also provides clarification regarding the statutorily-required process of removing or remedying identified conflicts.

Comment: Sixteen commenters expressed support for § 1327.19 (§ 1327.21 in the final rule) as proposed. One of these commenters indicated that this proposed regulation is critical to promoting and maintaining the autonomy and integrity of the Ombudsman program. Two commenters indicated that the proposed language provides avenues for State agencies to address scenarios where the Ombudsman program is compromised by conflicts of interest. One commenter congratulated AoA on taking on this complicated issue which becomes increasingly complex as agencies become more diversified in provision of services. The commenter indicated that recognizing placement raises inherent conflicts is first step to finding ways to ensure that policies are in place to address conflicts when they do arise, ensuring that resident concerns are fully and appropriately addressed.

Another indicated that the proposed language gives clarity regarding potential conflicts of interest and guidance for eliminating or remedying it. The commenter indicated that Ombudsmen in some State agencies have other job responsibilities or are located in agencies where responsibilities can appear to or actually compete with resident interests, resulting in residents perceiving that the Ombudsman is not truly representing their interests.

One commenter indicated appreciation for AoA building in time to allow networks to make appropriate changes and construct effective remedies where conflicts exist. Several commenters requested further guidance and training to help States craft remedies or expressed appreciation for AoA's indication of its intent to do so in advance of final rule implementation.

Response: We appreciate the supportive comments and note that the corresponding provisions are at § 1327.21 of the final rule.

Comment: Two commenters indicated that the proposed rule is too weak given the reality of many of the enumerated conflicts of interest.

Response: It is our intent that through the implementation of the final rule, State agencies and Ombudsman programs will be better equipped to

comply with the provisions related to conflicts of interest as required by section 712(f) of the Act.

Comment: Seven commenters recommended that the final rule describe consequences for non-compliance with reporting or interference and indicated the need for AoA enforcement. Several of the commenters indicated that, unless AoA monitors and reinforces the requirements, compliance cannot be assured.

Response: We have addressed the State agency responsibilities related to interference, retaliation and reprisals at § 1327.15(i). In addition, Federal regulation provides options for HHS grant awarding agencies, including AoA, to respond when a grantee fails to comply with any term of an award. 45 CFR 75.371.

Comment: Three commenters indicated concern for adequate staffing in agencies housing local Ombudsman entities where every staff person must perform multiple roles and responsibilities, with insufficient funding for a full-time representative of the Office, or in entities with conflicting responsibilities which must share the same work space. Two of these commenters indicated that this is particularly a challenge in rural areas.

Response: We acknowledge the significant challenges faced by individuals who must perform multiple roles and responsibilities. Multiple roles and responsibilities do not necessarily pose a conflict of interest. However, where they do, the Act, and this final rule in implementing the Act, require that the conflicts be identified and remedied or removed. We intend to provide additional technical assistance to State agencies and Ombudsman programs to assist them in complying with this rule.

Comment: One commenter indicated that the benefits of coordination among programs (*e.g.,* adult protective services and Ombudsman programs) may outweigh the potential conflicts of interest.

Response: We agree that coordination between adult protective services and Ombudsman programs can and does benefit the individuals whom they serve. In fact, the Act (at section 712(h)(6)–(8)) and this final rule (at § 1327.13(h)) require the Ombudsman to coordinate Ombudsman program services with various entities; the rule requires coordination with adult protective services. We believe that the identification of a conflict of interest does not diminish the importance of coordination among relevant programs.

Comment: Seven commenters recommended clarification related to conflict of interest and legal counsel for the Ombudsman program, requesting a requirement that any individual providing legal counsel to the Office is not subject to a conflict of interest.

Response: As a result of these and other comments, we have included in the final regulation a provision that the State agency ensure the provision of conflict-free legal counsel at § 1327.15(j).

Comment: One commenter indicated that the best way to minimize conflicts is to legislatively require the Office to be moved outside of State government. Another commenter indicated that the rule should explicitly state that the Ombudsman program not be located within or connected to the State agency.

Response: The Act specifically provides State agencies with significant latitude in determining whether to operate the program directly or operate it through contract or other agreement with another agency. Section 712(a)(4) of the Act. Therefore, we do not believe the Act provides us with the authority to promulgate a rule which would prohibit State agencies from operating the Office directly or from arranging for another State agency to operate the Office. Further, we have observed examples of Ombudsman programs located within or attached to State agencies which have been successfully able to perform the functions required in the Act.

Comment: One commenter requested that AoA be flexible in addressing States' unique programmatic concerns. Another recommended that AoA provide examples of acceptable remedies and situations which cannot be remedied. One commenter recommended that AoA provide oversight to enable States agencies and local Ombudsman entities to properly implement this rule without undermining existing infrastructure.

Response: We plan to provide training and technical assistance to assist State agencies and Ombudsmen to implement the final rule.

Comment: One commenter recommended that the Ombudsman, in addition to the State agency, be required in the final rule to identify possible conflicts and develop policies to remedy the conflicts.

Response: We have adopted this recommended change in the final rule at § 1327.21. In addition, the final rule provides for Ombudsman involvement in developing and/or collaborating on the development of Ombudsman program conflict of interest policy at § 1327.11(e)(4).

Comment: One commenter recommended that we include language requiring the State agency to have written policies and methods to identify and remove conflicts of interest and other influences that could limit the Ombudsman program's ability to carry out its assigned functions. They recommended including methods by which the State agency will examine individuals and their immediate family members to identify conflicts and actions the State agency will require the individuals and such family members to take to remove such conflicts.

Response: We have included language that incorporates this recommendation in the final rule at § 1327.11(e)(4) related to development of policies and procedures. We note that the recommended language is taken largely from the statutory provision at section 712(f)(4) of the Act and agree that it is appropriate to reflect that statutory language in the rule.

Comment: One commenter recommended that we include language requiring the State agency to have policies regarding interference, prohibiting retaliation and reprisals and providing for appropriate sanctions.

Response: Provisions related to State agency development of policies and procedures on interference, retaliation, and reprisals, and providing for appropriate sanctions have been included in the final rule at § 1327.15(i).

Comment: Eight commenters indicated support for the proposed language regarding identification of organizational conflicts at § 1327.19(a). Two commenters commended AoA for including surrogate decision-makers in the list of examples at § 1327.19(a)(12).

Response: We appreciate the supportive comments and note that the corresponding provisions are in the final rule at § 1327.21(a).

Comment: Several commenters interpreted the proposed rule to prohibit the operation of the Ombudsman program in a host agency with one or more of the conflicts enumerated in § 1327.19(a). One commenter indicated concern that the proposed rule would prohibit the Office from being located in a host agency responsible for public guardianship or Medicaid assessments, given current locations of Ombudsman programs in agencies that have these responsibilities. One commenter recommended that the final rule clarify that a remedy might be found that does not require moving out of the agency with a conflicting responsibility. Another indicated that, if the Ombudsman program should be separated from the State unit on aging and its funding stream, this would have

a significant financial impact on the program as significant funds do not come from Federal sources.

Response: We recognize that some States have organizationally located the Office and/or local Ombudsman entities inside agencies with duties which are identified as examples of conflicting duties under the final rule. The final rule does not prohibit the Office or local Ombudsman entities from being hosted in the entities enumerated in § 1327.21(a), except for those conflicts enumerated in § 1327.21(b)(3). However, the final rule does require the State agency and Ombudsman to identify these conflicts and take steps to remove or remedy the conflicts. Further, the Ombudsman must report on these steps to AoA. *See* § 1327.21(b)(1).

Comment: One commenter recommended defining ''long-term care services'' where it appears in § 1327.19, suggesting it be limited to services provided to residents and applicants of long-term care facilities but not services provided in the applicant or residents' home outside of a long-term care facility.

Response: We have added language in the final rule at § 1327.21(a) to clarify that a potential or actual conflict exists where the services are provided to residents of long-term care facilities, as defined by the Act at section 102(35), but not necessarily for services provided to individuals receiving long-term care (or long-term services and supports) in other settings. For consistency, we have also removed the term ''long-term care services'' from the other places where it was found in the proposed rule.

We understand that some States have expanded the Ombudsman program's jurisdiction to serve individuals in adult day health centers, in their own homes, and other settings, beyond the scope of the Act. While this rule does not restrict those State decisions which have expanded the Ombudsman program scope, it is equally important for the State agency and the Ombudsman program to identify and remedy or remove additional conflicts of interest that may exist where the Ombudsman program serves individuals receiving long-term care in settings other the long-term care facilities.

Comment: One commenter indicated that, at the local level, a representative of the Office hosted by an AAA faces conflicts with the agency when the representative of the Office makes recommendations or investigates problems at county-based facilities. This is especially challenging, according to the commenter, where the representative of the Office is co-located with workers with roles such as guardians, protective services workers, and care managers.

Response: Section 1327.21(b)(6) of the final rule requires the identification of such conflicts of interest and requires that the agency hosting a local Ombudsman entity take steps to remedy or remove such conflicts.

Comment: One commenter recommended that the final rule indicate that conflicting activities performed by an Ombudsman or representatives of the Office are not permissible.

Response: We have adopted this recommendation at § 1327.21(a) of the final rule.

Comment: One commenter recommended that the final rule include ''supported decision makers'' to the list of surrogate decision-makers in § 1327.19(a)(12).

Response: Since supported decision-makers are designed to support the wishes of the individual, we do not understand this function to be a conflict of interest with the Ombudsman program. This is in contrast to surrogate decision-makers which may focus on the best interest of the individual and may have the authority to override the wishes of the individual.

Comment: One commenter indicated that, since a number of States and AAAs provide both Ombudsman services and protective services, the final regulation should recognize that such an arrangement does not inherently present a conflict of interest.

Response: While there may be remedies available to address this conflict of interest, we do not agree that the fact that these two programs are co-located in some States or AAAs eliminates the conflict.

Comment: Several commenters recommended that AoA provide further guidance on implementation of this regulation, including clarification of terms such as ''placement'' in § 1327.19(a), clarifying and distinguishing between ''remedy'' and ''removal,'' to assist States as they identify conflicts.

Response: We plan to provide additional training and technical assistance to assist State agencies and Ombudsmen to implement the final rule.

Comment: One commenter recommended that the final rule indicate that ''any aspect of licensing'' be included in § 1327.19(a)(1) and (a)(2)(i) to address the circumstance where various regulatory responsibilities are divided among various agencies.

Response: We believe that the proposed language is sufficiently clear to apply to more than one entity with functions of licensing, surveying or certifying long-term care facilities, so have not made this change in the final rule in the corresponding provisions at § 1327.21(a)(1) and (a)(2)(i).

Comment: One commenter indicated that some AAAs which organizationally house local Ombudsman programs receive donations from long-term care facilities. Another commenter indicated that some AAAs are county agencies in counties that own, operate and/or manage long-term care facilities and where the facility and the AAA report to the same leadership.

Response: We acknowledge that conflicts of interest exist currently in some State agencies and agencies hosting local Ombudsman entities. It is our intent that the final rule will clarify the process by which State agencies and Ombudsmen can appropriately carry out their responsibilities to identify, remedy and/or remove such conflicts.

Comment: One commenter indicated that co-locating care coordination services, protective services, guardianship services, and a local Ombudsman entity within an AAA has been positive and has strengthened working relationships. Another commenter indicated that co-location of protective services and a local Ombudsman entity has allowed for greater advocacy and efficiency.

Response: We believe that positive relationships between the individuals who work for various programs and agencies—even those which provide potentially conflicting services—can be extremely beneficial for recipients. In fact, Ombudsman program coordination with many of these entities is required in the final rule at § 1327.13(h).

Comment: One commenter recommended that the final rule include as a conflict: ''determining training requirements for long-term care service providers.''

Response: Since training requirements for long-term care facilities are typically established as part of licensing or certification requirements, we believe that the provision related to ''licensing, surveying, or certifying long-term care facilities'' (in the final rule at § 1327.21(a)(1)) would typically be inclusive of this activity. The list of organizational conflicts of interest in the final rule is not exhaustive and does not preclude the identification of additional conflicts.

Comment: Several commenters recommended approaches to remedying identified organizational conflicts. One commenter recommended that the final rule require development of firewalls to protect the Ombudsman program and

personnel from interference, intimidation and retaliation by State officials. Another commenter recommended that the rule indicate that each entity must ensure administrative separateness of all programs as a remedy. Another indicated that separating out AAA staff functions could help remedy conflicts with a local Ombudsman entity. One commenter recommended that all local Ombudsman entities have their own brand identity (*e.g.,* signage, stationary, business cards, outreach materials) separate from the AAA to reduce perceived conflicts of interest and confusion (including questions from residents about why representatives of the Office wear name tags with the AAA name on them).

One comment recommended that the final rule include criteria for steps that should be taken by the State agency as evidence of a process to remedy or remove conflicts. The commenter noted that some of these are included in the preamble to the proposed rule and proposed additional criteria.

Response: We acknowledge that administrative structures, such as firewalls, may be appropriate remedies in some circumstances. AoA plans to provide additional technical assistance to States as they develop plans to remove and remedy existing conflicts of interest. Provisions related to development of policies and procedures on interference, retaliation and reprisals, and providing for appropriate sanctions have been included in § 1327.15(i).

Comment: One commenter recommended that the final rule should emphasize removal of conflicts, as opposed to remedy of conflicts, which may be superficial. The commenter recommended that, where conflicts exist, the Ombudsman program or the conflicting service should be relocated within a reasonable time frame.

Response: We disagree. We are aware of examples where remedies have been effective in ensuring the credibility of the Ombudsman program. We plan to provide additional technical assistance to State agencies and to Ombudsman programs to assist them in developing effective steps to remedy or remove conflicts.

Comment: One commenter recommended that the State agency and the Ombudsman should describe the organizational placement of the Office, identify any organizational conflicts, develop a proposal for removing or remedying the conflict, and submit their plan to AoA for approval, indicating the State's plan to continue operating under the approved plan until there is some change in the Office that requires reporting.

Response: The final rule at § 1327.21(b)(1) requires the Ombudsman to report on any identified conflicts and steps taken to remedy the conflicts through the NORS.

Comment: One commenter recommended that we add the term ''periodic'' to describe the review process required in § 1327.19(b)(1)(ii) of the proposed rule in order to require that review be made on a regular basis.

Response: We agree that periodic reviews are reasonable. The final rule provides flexibility for a State agency and Ombudsman program to develop a review process that includes periodic reviews.

Comment: One commenter recommended clarity on enforcement actions that might be taken where conflicts exist.

Response: Determinations regarding organizational placement of the Office and/or local Ombudsman entities may remove conflicts of interest. Further, the final rule at § 1327.21(b)(7) provides that failure to disclose a conflict by an agency hosting a local Ombudsman entity is adequate grounds for the Ombudsman to refuse, suspend, or remove the entity's designation.

In addition, the relationship between AoA and the State agency is one of a grant awarding agency to a grantee. Federal regulation provides options for HHS grant awarding agencies such as AoA to respond when a grantee fails to comply with any term of an award. 45 CFR 75.371.

Comment: Three commenters indicated support for the proposed requirement for reporting of conflicts into the NORS.

Response: We appreciate the supportive comments.

Comment: One commenter recommended language that would require submission of and approval of a plan for removing or remedying organizational conflicts.

Response: The final rule at § 1327.21(b)(1) requires the reporting of organizational conflicts and steps taken to remove or remedy them through the NORS.

Comment: One commenter requested information on how AoA intends to use the information regarding disclosure of conflicts of interest reported in the NORS. Two commenters expressed concern for possible retaliation against the Ombudsman who submits information in NORS.

Response: AoA intends to use the reports in order to assist it in assuring that State agencies and Ombudsman programs are complying with the requirements in the Act and in this rule to identify and remedy or remove conflicts of interest. We would also review the circumstances if we were to receive any reports of retaliation against an Ombudsman who truthfully submits information required by Federal rule, and we would take appropriate steps to address any such allegations.

Comment: One commenter indicated that not all States use the NORS system. Another commenter recommended that AoA consider the cost to States if this reporting requires updating of NORS.

Response: While not all States use the same software to collect their data, all States are required to report into NORS as a condition of receiving OAA funds. OMB NO.: 0985–0005. In order to make changes to NORS, the AoA is required to publish, and invite public comment on, the proposal as well as provide estimates of any cost impact, as required by the Paperwork Reduction Act. We will invite public comment on any proposed changes to NORS as a result of the implementation of this rule.

Comment: Four commenters indicated that, in addition to NORS reporting, conflicts at the state level should be immediately reported to AoA. One of these commenters indicated that annual reporting in NORS is untimely to report a matter of such great significance. Instead, the commenter recommended that the rule at § 1327.19(b)(1)(v) require the State agency to immediately report (in no later than ten days) conflicts to AoA, indicating that the State agency is likely to be the source of the conflict. The commenter proposed that State agency failure to immediately disclose and adequately remedy or remove conflict should be grounds to remove State agency authority to operate the Office, and that the same penalty be applied to a local Ombudsman entity under § 1327.19(b)(6). Another commenter recommended that all Ombudsmen and representatives of the Office should be required in the final rule to report any perceived or real conflict of interest directly to a neutral third party.

Response: We believe that the approach we have taken in the final rule at § 1327.21, which provides for annual identification of organizational conflicts and description of steps taken to remedy or remove conflicts, will provide an orderly process that will implement the requirements of the Act, enhance transparency, avoid burdensome reporting requirements on Ombudsman programs, and emphasize the importance of States providing credible, conflict-free Ombudsman programs for residents.

Comment: One commenter recommended that all conflicts of interest at state or local levels should be included in the NORS report.

Response: The rule does not limit reporting in NORS to state-level organizational conflicts of interest.

Comment: One of the commenters recommended that the final rule include stronger language to protect the Ombudsman from retaliation, indicating that retaliation occurs in spite of prohibitions under the Act.

Response: Provisions related to development of policies and procedures on interference, retaliation, and reprisals, and providing for appropriate sanctions have been included in § 1327.15(i).

Comment: One commenter noted that the proposed rule at § 1327.19(b)(2) prohibits co-location of the Ombudsman program with only three of the twelve examples listed in § 1327.19(a). The commenter recommended that the final rule include a prohibition of co-location of the Ombudsman program with adult protective services and entities making admission or discharge decisions regarding long-term care facility residents. The commenter indicated that the actions of these entities may be too directly coercive for most residents or their families to be able to feel that the Ombudsman could be impartial.

Response: A State agency or Ombudsman program may choose to implement policies that prohibit the co-location of the Ombudsman program with adult protective services and entities making admission or discharge decisions regarding long-term care facility residents. However, we have not amended the final rule to adopt this recommendation.

Comment: One commenter recommended that there should not be an absolute prohibition of the Office being co-located with the entity responsible for licensing, surveying or certifying long-term care facilities as proposed in § 1327.19(b)(2)(i).

Response: The Act prohibits a State agency to enter into a contract or other arrangement to carry out the Office with ''an agency or organization that is responsible for licensing or certifying long-term care services in the State.'' Section 712(a)(4)(B)(i) of the Act. We have narrowed the applicability of this provision to ''long-term facilities'' in the final rule. However, we believe that same prohibition to co-locate the Office with a licensing or certification agency where the State agency contracts out the Office, should also apply to the State agency when it houses the Office, since the same conflicts of interest exist in either organizational placement.

Comment: Three commenters recommended that AoA, rather than the State agency, be responsible for determining whether the State agency has adequately remedied or removed a conflict. The commenters indicated concerns that conflicts have increased as State agencies and AAAs increasingly take on additional direct service provision, including through Medicaid waiver programs.

Response: The Act requires that the State agency establish mechanisms to identify and remove conflicts of interest. Section 712(f)(4) of the Act. We are available to provide technical assistance to support States in fulfilling this requirement. Moreover, the final rule, at § 1327.21(b), provides AoA with a mechanism to become more aware of existing conflicts and steps States and Ombudsman programs have taken to remedy or remove the conflicts through regular reports.

Comment: One commenter recommended that we add the term ''operational'' to the proposed language at § 1327.19(b)(2)(iii).

Response: We have accepted this recommended language in the final rule at § 1327.21(b)(3)(iii).

Comment: One commenter recommended that the final rule address the situation of conflicts when the State agency has responsibility for oversight of a contract to operate the Office.

Response: We have accepted this recommended language in the final rule at § 1327.21(b)(4)(i).

Comment: One commenter indicated support for the State agency and the Ombudsman being in the best position to identify a process to remove and/or remedy any organizational conflicts within local agencies.

Response: We appreciate the supportive comment.

Comment: Two commenters indicated support for the proposed language at § 1327.19(c). One of these commenters indicated appreciation for AoA's indication of the importance of promoting conflict-free integrity of the Ombudsman program.

Response: We appreciate the supportive comments and note that the corresponding provisions are in the final rule at § 1327.21(c).

Comment: One commenter indicated that the proposed rule will create a challenge in rural areas where employees of long-term care facilities are neighbors, friends and family of representatives of the Office.

Response: The Act requires the State to ensure that no representative of the Office or member of his or her immediate family is subject to a conflict of interest. Section 712(f)(2) of the Act. We appreciate that this requirement may create challenges to some Ombudsman programs and local Ombudsman entities, including in rural areas. Our intent is to help States and Ombudsman programs carry out this statutory requirement and to enhance the credibility of the Ombudsman program. We plan to provide additional technical assistance to State agencies and Ombudsman programs as they develop approaches to remove and remedy existing conflicts of interest.

Comment: One commenter recommended that AoA provide States with deference in their hiring practices and not limit States from selecting otherwise qualified candidates from serving in the Office.

Response: Under the final rule, State agencies and other entities responsible for employing or appointing the Ombudsman do have significant latitude to select a person who meets the qualifications of the position. *See* § 1327.11(d). The Act requires that the State agency shall ensure that the Ombudsman be free of conflict of interest and provides a number of specific examples of prohibited interests or relationships. Section 712(f) of the Act. Our intent in this rule is to assist States to implement this statutory provision, but not to limit them from selecting qualified candidates.

Comment: One commenter recommended that we add a new provision to the proposed language at § 1327.19(c)(2) which prohibits the ability to gain financially through an action or potential action brought on behalf of individuals the Ombudsman serves. The commenter indicated that this language reflects the language of the Act at Section 712(a)(5)(C)(ii) and provide additional clarity.

Response: We have not added this recommended provision in the final rule but note that other provisions, including § 1327.21(c)(2)(iv), (v), and (vi) in the final rule, include examples of conflicting financial gains.

Comment: One commenter recommended that individual conflicts identified in the proposed rule at § 1327.19(c)(2)(i)–(vi) should have a one-year ban and that States may impose longer periods of disqualification.

Response: We have not adopted this recommendation. However, the rule does not prohibit States from imposing periods of disqualification for these or other conflicts.

Comment: One commenter recommended that the final rule require a period of two to five years before an individual can be employed as an Ombudsman or representative of the

Office after direct involvement with licensing or certification of a facility or provider.

Response: We have not adopted this recommendation. However, the rule does not prohibit States from imposing periods of disqualification for this or other conflicts.

Comment: One commenter recommended that the final rule require a cooling off period of two to five years for ownership or investment interest in an existing or proposed long-term care facility or service.

Response: We have not adopted this recommendation. However, the rule does not prohibit States from imposing periods of disqualification for this or other conflicts.

Comment: Several commenters recommended that the conflict identified in the proposed rule at § 1327.19(c)(2)(iii) regarding employment in a long-term care facility, should not be limited to the service area, but statewide. One of the commenters indicated that their State has had several Ombudsmen which had been hired directly from long-term care provider employment, some of whom have exhibited sympathy with providers over consumers, and depriving residents of an autonomous and independent advocate. One commenter recommended that the final rule require a cooling off period of two to five years after employment in a long-term care facility.

Response: We have eliminated the reference to employment in a long-term care facility ''within the previous year'' in the final rule at § 1327.21(c)(2)(iii), as this provision relates to identification of an existing conflict of interest. However, we have maintained for the Ombudsman a cooling off period of twelve months for previous employment in a long-term care facility in the final rule at § 1327.21(d)(3).

Comment: One commenter recommended that we eliminate the prohibition on hiring representatives of the Office who have been employed in a long-term care facility within the previous year at § 1327.19(c)(2)(iii), and limit the prohibition to the Ombudsman, as qualified staff and volunteers are difficult to recruit. Another commenter recommended that we amend the provision in the proposed rule at § 1327.19(c)(2)(iii) to reduce the restriction to a six-month period after being employed at a long-term care facility for representatives of the Office (as opposed to the Ombudsman).

Response: We have eliminated the reference to employment in a long-term care facility ''within the previous year'' in the final rule at § 1327.21(c)(2)(iii), as this provision relates to identification of an existing conflict of interest. In the final rule at § 1327.21(d)(3), we have limited the twelve month cooling off period to employment or appointment to the Ombudsman only. We encourage, but don't require, that States apply a cooling off period to the representatives of the Office in the final rule at § 1327.21(d)(4)(iv)(A).

Comment: One commenter recommended that we provide additional clarity regarding what constitutes ''significant value'' related to gifts or gratuities of a facility, management, resident or resident representative in the proposed rule at § 1327.19(c)(2)(v).

Response: Some States define ''significant value'' or similar terms in the context of gifts or gratuities. Rather than requiring States to replace existing definitions and standards, we have chosen to use the final rule (at § 1327.21(c)(2)(v)) to establish the general expectation and defer to State agencies and Ombudsman programs to develop more specific definitions and standards as needed.

Comment: Two commenters indicated support for the identification of a conflict where the Ombudsman or representative of the Office serves as a surrogate decision-maker for a resident in the service area in the proposed rule at § 1327.19(c)(2)(vii).

Response: We appreciate the supportive comments and note that the corresponding provision appears in the final rule at § 1327.21(c)(2)(vii).

Comment: Two commenters recommended that the conflict identified in the proposed rule at § 1327.19(c)(2)(vii), regarding serving as a surrogate decision-maker, be more specific. One of the commenters indicated that this conflict should apply only to facilities served by the representative of the Office. The commenter indicated that a representative may hold a power of attorney for a family member who lives in the same county and that this would not create a conflict. The commenter indicated concern that this proposal would discourage qualified people from serving as representatives of the Office.

Response: The cited provision provides an example of an existing conflict of interest. The commenter indicates an example of a remedy to that conflict (*i.e.* that the representative of the Office not serve the facility where a conflict exists). To prevent confusion, however, we have clarified that the conflict exists in a facility ''in which the Ombudsman or representative of the Office provides services'' in § 1327.21(c)(2)(vii) of the final rule.

Comment: One commenter indicated that the proposed language at § 1327.19(c)(2)(viii) regarding immediate family residing in a facility is impractical and would limit the ability of the Ombudsman program to provide services in smaller communities where a large percentage of individuals are related. The commenter indicated that this provision would make it especially difficult to have Native Americans serve as representatives of the Office and serve residents of Tribal facilities. Instead, the commenter recommended that States be permitted to develop policies on how to mitigate the conflict.

Response: The Act requires the State to ensure that no representative of the Office or member of his or her immediate family is subject to a conflict of interest. Section 712(f)(2) of the Act. We appreciate that this requirement may create challenges to some Ombudsman programs and local Ombudsman entities, including in Tribal areas. Our intent is to help State agencies and Ombudsman programs carry out this statutory requirement and to enhance the credibility of the Ombudsman program. We plan to provide additional technical assistance to State agencies and Ombudsman programs as they develop approaches to remove and remedy existing conflicts of interest.

Comment: Two commenters recommended we delete the provision of the proposed rule at § 1327.19(c)(2)(ix) regarding participation in activities which negatively impact the Ombudsman or the perception of the Office. One of the commenters indicated that this provision is too vague and could lead to unwarranted scrutiny by agencies who do not like the actions of the Ombudsman. Another commenter indicated that the provision could be used to unjustifiably discredit or retaliate against the Ombudsman.

Response: We have accepted the recommended revision.

Comment: One commenter recommended that the final rule include as an enumerated conflict, in § 1327.19(c)(2), employment by a long-term care trade association or Medicaid managed care organization.

Response: We agree with the commenter that there are circumstances, including employment by a long-term care provider trade association or by a managed care organization providing coverage for managed long-term services and supports, which are not listed in the rule but would constitute an individual conflict of interest. We created a list of examples, indicating that the list is not

exhaustive, in the final rule at § 1327.21(c)(2).

Comment: One commenter recommended that we add the term ''or permitted'' after ''required'' in the final rule at § 1327.19(d)(1).

Response: This is a helpful clarification. We have revised the final rule at § 1327.21(d)(1) accordingly.

Comment: Two commenters recommended that the final rule clarify that the provisions at § 1327.19(d)(1) apply to appointment by the Governor or other State official.

Response: In light of this recommendation, we have revised the final rule at § 1327.21(d) to apply to circumstances of appointment as well as employment.

Comment: One commenter recommended that a neutral third party with no stake in the Ombudsman program, not the State agency, be ultimately responsible for identifying, removing or remedying a conflict of interest.

Response: The Act provides that the State agency has the duty to ensure that the Ombudsman and representatives of the Office are free of conflicts of interest as well as to establish mechanisms to identify and remove conflicts. Section 712(f) of the Act. As the grantee, the State agency is held accountable by AoA for adherence to the terms and conditions of this grant.

Comment: One commenter recommended that the final rule include a provision which would allow the State agency to de-designate a representative of the Office if there is an unremedied conflict of interest and the Ombudsman chooses not to de-designate the individual.

Response: The Act provides that the Ombudsman has the authority to designate representatives of the Office. We interpret the Act to require that the Ombudsman should also be responsible to refuse, suspend or remove designation of the representatives of the Office. *See* section 712(a)(5) of the Act and § 1327.13(c) of the final rule.

Comment: Several commenters recommended approaches to remedying identified individual conflicts.

Response: We appreciate that commenters have provided suggested remedies. We plan to provide additional technical assistance to States as they develop approaches to remove and remedy existing conflicts of interest.

Comment: Three commenters recommended deletion of or clarification of the term ''officer'' in the proposed language at § 1327.19(d)(1)

Response: The Act uses the term ''officer'' in section 712(f)(2) of the Act. However, we have adopted this recommendation in the final rule at § 1327.21(d)(1), because we believe that the final rule's provisions covering the Ombudsman and representatives of the Office cover the relevant individuals envisioned by Congress in this provision of the Act.

Comment: One commenter recommended that we add ''The State agency *and the Ombudsman* shall develop and implement policies'' at § 1327.19(d)(1).

Response: For consistency with the provisions related to development of policies in § 1327.11(e)(4), we have provided that either the State agency or the Ombudsman may develop policies and procedures on conflicts of interest. In addition, we have removed proposed language at § 1327.21(d)(4) and (8) so that all provisions related to required content of conflict of interest policies and procedures are found at § 1327.11(e)(4).

Comment: One commenter recommended that we clarify that the requirements of the proposed rule at § 1327.19(d)(2) apply to the State entity or other entity that hires the Ombudsman.

Response: We have added, in the final rule at § 1327.21(d)(2), the language ''or other employing or appointing entity'' in response to this recommendation.

Comment: One commenter recommended that we add language to the proposed rule at § 1327.19(d)(2)(i) as a reminder that the Ombudsman, not the State agency or local entity, is the person with authority to designate and de-designate individuals as representatives of the Office.

Response: We believe the authority of the Ombudsman to designate representatives of the Office is adequately set forth in other provisions of the final rule. This authority is also re-iterated at § 1327.11(e)(4)(iii) of the final rule regarding policies on conflicts of interest.

Comment: One commenter recommended that we add a clarification that the proposed provision at § 1327.19(d)(2)(i) does not pre-empt stronger State laws.

Response: Stronger State laws or regulations are not prohibited by this Federal regulation.

Comment: One commenter indicated that the proposed rule at § 1327.19(d)(2)(i) (prohibiting hiring of an individual with an immediate family member with a conflict of interest) ignores the possibility of an extension of the traditional definition of ''family.''

Response: We believe that the definition of ''immediate family member'' in the final rule at § 1327.1 provides flexibility which covers non-traditional families and households. We also note, that, under ACL's April 21, 2014 Guidance on Federal Recognition of Same-Sex Marriage (available at *http://www.acl.gov/Funding_Opportunities/Grantee_Info/Index.aspx*), an immediate family member who is a member of the household or a relative includes a spouse in a same-sex marriage.

Comment: One commenter described the proposed prohibitions on employment of individuals (in proposed § 1327.19(d)(5)) as overly broad and precluding of significant numbers of individuals with expertise and experience in the fields of long-term care and advocacy. Another commenter indicated that when a conflict of interest exists in one facility, it should not prohibit individual representatives of the Office from serving in other facilities.

Response: In the final rule at § 1327.21(d)(4), we have modified the provision to prohibit the employment or appointment of an Ombudsman or representative of the Office under some circumstances. For example, we have deleted the cooling off period for individuals with direct involvement in licensing or certification and narrowed the scope of conflicting ownership or investment interest to long-term care facilities (rather than services). The rule does not prohibit States from imposing periods of disqualification or other more stringent requirements related to these or other conflicts.

Comment: One commenter recommended the final rule should require that, should an individual be employed as Ombudsman or representative of the Office with a conflict of interest as described in proposed § 1327.19(d)(5), the State agency should provide a plan to AoA for remedying or removing the conflict, and AoA should determine whether the conflict has been adequately removed or remedied.

Response: The final rule requires the Ombudsman to report on any identified conflicts and steps taken to remedy the conflicts through NORS at § 1327.21(b)(1).

Comment: One commenter indicated that proposed § 1327.19(d)(5) is unnecessary in light of subsection (2) and might incorrectly imply that some of the provisions in subsection (2) do not apply to the Ombudsman.

Response: The provision in the final rule at § 1327.21(d)(2) broadly describes the process of employment or appointment related to conflict of interest and the Ombudsman program at any level. In contrast, the corresponding provision in the final rule at

§ 1327.21(d)(4) identifies specific prohibited conflicts regarding representatives of the Office. We note that the provision in the final rule at § 1327.21(d)(3) identifies specific prohibited conflicts regarding the Ombudsman.

Comment: One commenter recommended that we add a period of two years to five years to the proposed language at § 1327.19(d)(5)(ii) regarding ownership or investment interest in a long-term care facility or service.

Response: In the final rule, at § 1327.21(d)(4)(ii), we have modified the provision to prohibit the employment or appointment of an Ombudsman or representative of the Office in circumstances which more closely reflect the provisions of the Act, including by taking out references to the individual having had specified conflicts within the previous year. We note that the rule does not prohibit States from imposing periods of disqualification for these or other conflicts.

Comment: Two commenters expressed support for the proposed rule at § 1327.19(d)(5)(iii) regarding the one-year period before employing individuals who have been employed by, or participated in the management of, a long-term care facility.

Response: We appreciate the supportive comments. The relevant provision in the final rule provides for a twelve month period and is limited to the Ombudsman. § 1327.21(d)(3)(iii). The final rule does not require a twelve month cooling off period for representatives of the Office at § 1327.21(d)(4)(iv) of the final rule. We note that the rule does not prohibit States from imposing periods of disqualification for these or other conflicts.

Comment: Five commenters expressed concerns regarding the proposed rule at § 1327.19(d)(5)(iii) regarding the one-year period before employing individuals who have been employed by, or participated in the management of, a long-term care facility. Several indicated that the proposed provision unnecessarily limits the ability of a State or Ombudsman program to recruit representatives with expertise. One of these commenters recommended the ability to permit a remedy. Two commenters recommended that States be provided with latitude to determine the best candidates and self-monitor for conflict-free assurance. Another recommended limiting the prohibition to the service area to avoid unduly limiting the pool of candidates.

Response: The relevant provision in the final rule provides for a twelve-month period and is limited to the Ombudsman. § 1327.21(d)(3)(iii). The final rule does not require a twelve-month cooling off period for representatives of the Office at § 1327.21(d)(4)(iv) of the final rule. We note that the rule does not prohibit States from imposing periods of disqualification for these or other conflicts.

AoA realizes that this required twelve-month cooling off period serves as a proxy for avoiding conflicts of interest and does not guarantee the outcome of an Ombudsman free of potential conflicts. We also realize that this rule could—and likely would—disqualify some excellent and otherwise qualified candidates from the position of Ombudsman. However, we are convinced that the final rule will bolster the credibility of the Ombudsman program, particularly among residents and their representatives, when the Ombudsman is not selected from among individuals who are employed in long-term care facilities at or near the time of their selection. The Ombudsman is the head of a program with responsibility to identify, investigate, and resolve complaints of residents who live in these settings and to represent the interests of the residents. Residents must be able to trust that the Ombudsman has their interests as his or her primary focus, without a sense of loyalty to a previous employer or coworkers.

Comment: Four commenters recommended that the final rule prohibit employment of individuals who have been employed by, or participated in the management of, a long-term care facility for a period longer than one year. Recommendations ranged from two years to five years before employing individuals as the Ombudsman or representative of the Office who have been employed by, or participated in the management of, a long-term care facility.

Response: We believe that a twelve-month cooling off period should be the minimum requirement when an Ombudsman is employed or appointed who has been previously employed by a long-term care facility. We note that the rule does not prohibit States from imposing periods of disqualification for these or other conflicts.

Comment: Two commenters recommended the proposed rule at § 1327.19(d)(7) be amended to add a requirement that AoA ensure that policies and procedures are in place. Two commenters indicated that, unless AoA monitors and provides Federal oversight, compliance with the conflict of interest provisions cannot be assured. Another commenter recommended that the proposed rule at § 1327.19(d)(7) be amended to add a requirement that the Ombudsman be required to comply with this provision, as opposed to the State agency ensuring that the Ombudsman complies.

Response: The Act designed the Ombudsman program to be operated through grants to States. Therefore, AoA requires that State agencies (the grantee) ensure compliance by the Ombudsman with the requirements set forth in the final rule. We note that the provisions regarding the development of conflict of interest policies and procedures are in the final rule at § 1327.11(e)(4).

Comment: One commenter requested AoA to adopt a regulation prohibiting the State agency from imposing restrictions on the actions of the attorney of the Ombudsman program under the guise of conflicts of interest.

Response: The provisions related to legal counsel for the Ombudsman program are provided in a new provision at § 1327.15(j).

Comment: One commenter recommended that the final rule include a provision that identifies conflicts relating to individuals involved in the designation of the Ombudsman as required by section 712(f)(1) of the Act.

Response: In the final rule at § 1327.11(e)(4)(i), we have added language requiring that policies and procedures ensure that no individual, or member of the immediate family of an individual, involved in the employment or appointment of the Ombudsman is subject to a conflict of interest.

I. Additional Considerations

Legal Counsel

Comment: In the NPRM, we indicated that we believe the Act is adequately specific regarding what constitutes adequate legal counsel for the Ombudsman program but invited comments on the question of whether regulations are needed by States in order to more fully implement the Act's requirements. Many commenters offered comments in response. All of them indicated the need for regulations to clarify what constitutes adequate legal counsel. No commenters indicated that a rule was unnecessary. Among the reasons cited for the need were:

- It is rare that Ombudsman programs have adequate access to legal counsel.
- Current policies and practices have not fulfilled this requirement of the Act.
- The Act does not provide guidance to States regarding what functions should be performed, how counsel

should be financed, and identifying conflicts for purposes of legal counsel.

- Conflicted legal counsel has contributed to misguided policies.
- Conflicts exist when the legal counsel for the Office also represents the interest of State government programs such as Medicaid or public guardians.
- It is critical for Ombudsman programs to have conflict-free legal counsel in order to ensure that resident rights are protected.
- The authority and capacity of the Ombudsman program to provide individual representation for residents in administrative and legal proceedings is virtually non-existent in some States.
- The Act requires that the Ombudsman program pursue legal remedies on behalf of residents.

Response: In response to these comments, we have added a provision regarding legal counsel in the final rule at § 1327.15(j).

Comment: Two commenters recommended that the final rule require that legal counsel not be part of the State agency or limited to an Attorney General's office. One of these commenters indicated that in-house counsel in State agencies represents the interests of the State rather than of the residents or the Ombudsman program.

Response: We have not prohibited legal counsel from being part of the State agency or limited to an Attorney General's office. There are some legal issues for which attorneys in these entities may be quite appropriate and the issue at hand does not present a conflict of interest. However, where an in-house counsel in a State agency or the Attorney General's office has a conflicting interest from the interest of the Ombudsman program or the residents it serves, the final rule requires that the State agency has a duty to ensure that the Ombudsman program has access to conflict-free legal counsel.

Comment: One commenter recommended that the Ombudsman have access to independent legal counsel of the Ombudsman's choosing. The commenter described how the legal counsel in their State has been extremely important to the success of the Ombudsman program in providing credible, effective services at both the systemic and individual levels.

Response: The Act requires that the State agency shall ensure the provision of adequate and conflict-free legal counsel. While some States will choose to provide the opportunity for the Ombudsman to choose the legal counsel for the Ombudsman program, other States may choose to ensure the provision of legal counsel through a more collaborative process. We do not read the Act to require that legal counsel be selected solely by the Ombudsman but neither does it prohibit a State from providing that opportunity to the Ombudsman.

Other Comments

Comment: One commenter recommended that AoA, through NORS, require collection and reporting of demographic data including English as a second language (ESL); lesbian, gay, bi-sexual, transgender (LGBT); intellectual and developmental disabilities (I/DD), chronic mental illness and persons of color. The commenter indicated that collection of such data would better inform the work of the Ombudsman program, provide for new and creative approaches, and demonstrate the need for increased funding. Another commenter recommended that NORS require collection and reporting of the number of people residing in facilities in addition to the number of beds as is currently required.

Response: AoA does not require reporting of any demographic information regarding individual residents through NORS. Currently AoA is reviewing the data elements it requires to be reported in NORS, and we will include these comments in that review process. Please note that any changes proposed to NORS by AoA will be published in the **Federal Register** with opportunity for public comment prior to their final adoption.

Comment: One commenter recommended that, throughout the rule, we acknowledge that the term ''family'' includes domestic partners and significant others who are considered as members of families by residents.

Response: In the definitions of ''immediate family member'' and ''resident representative'' in the final rule at § 1327.1, we have adopted language intended to be inclusive of domestic partners and significant others.

Comment: One commenter recommended the use of ''ombuds'' instead of ''ombudsman,'' indicating that at least one State has done so through its State law.

Response: AoA utilizes the same term as in the Act (*i.e.* ''Ombudsman'') in this rule, but States are not prohibited from using the term ''ombuds'' to describe the program.

Comment: Two commenters recommended clarification of whether the Ombudsman program should serve residents under age sixty in the final rule.

Response: AoA has long held that States are not prohibited from using OAA funds to support Ombudsman services to younger residents of long-term care facilities, even though the Act is designed to primarily benefit individuals over age 60. AoA Program Instruction 81–8.

There are no provisions in the final rule which limit Ombudsman program services to individuals based on age. Although the proposed rule contained one reference to ''older individuals'' (at § 1327.15(c)(3)(i)(A)), we have omitted the word ''older'' in the corresponding provision in the final rule at § 1327.15(k)(3).

Comment: One commenter recommended clarification of the types of facilities in which Ombudsman programs services are delivered in the final rule. Another commenter indicated that the local Ombudsman entity in which they serve does not visit board and care homes, asking whether States would be required in the final rule to visit board and care homes. The commenter recommended that the Ombudsman should determine the type of facilities to be visited within the respective State.

Response: The term ''long-term care facility''—*i.e.* the settings in which the Ombudsman program has jurisdiction to serve residents—is defined in section 102(a)(35) of the Act:

The term ''long-term care facility'' means—

(A) Any skilled nursing facility, as defined in section 1819(a) of the Social Security Act (42 U.S.C. 1395i–3(a));

(B) any nursing facility, as defined in section 1919(a) of the Social Security Act (42 U.S.C. 1396r(a));

(C) for purposes of sections 307(a)(9) and 712, a board and care facility; and

(D) any other adult care home, including an assisted living facility, similar to a facility or institution described in subparagraphs (A) through (C).

Comment: One commenter recommended guidance regarding how Ombudsman programs could access nursing home ownership information as provided by the Affordable Care Act.

Response: This rule implements the provisions of the Act, not the Affordable Care Act. We have noted the need for technical assistance regarding the issue of Ombudsman programs accessing nursing home ownership information.

III. Required Regulatory Analyses Under Executive Orders 13563 and 12866

Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory

alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been designated a ''significant regulatory action'' under Executive Order 12866; as such, this rule has been reviewed by the Office of Management and Budget.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) (5 U.S.C. 601 *et seq.*), agencies must consider the impact of regulations on small entities and analyze regulatory options that would minimize a rule's impacts on these entities. Alternatively, the agency head may certify that the rule will not have a significant economic impact on a substantial number of small entities. AoA does not anticipate that this rule will have a significant economic impact on a substantial number of small businesses and other small entities.

IV. Other Administrative Requirements

A. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act, before an agency submits a proposed collection of information to the Office of Management and Budget (OMB) for approval, it must publish a document in the **Federal Register** providing notice of the proposed collection of information and a 60-day comment period, and must otherwise consult with members of the public and affected agencies concerning the proposed collection. In accordance with Section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), AoA determined there were limited new information collection requirements in the proposed rule. Therefore, AoA sought comments on these information collections at the time of the proposed rule.

Currently, States are required to annually report on program activities, characteristics, and funding; complaint resolution; and recommendations for long-term care systems change of the Office of the State Long-Term Care Ombudsman through the National Ombudsman Reporting System (NORS).[1] The final regulations would add one additional question to NORS: the identification of organizational conflicts of interest and a description of steps taken to remove or remedy any identified conflict(s). Prior to the effective date of the final rule, AoA intends to request OMB approval for an amendment to current NORS instructions. It also plans to alter existing reporting software to capture data consistent with this requirement.

Comment: One commenter recommended that AoA consider the cost to States if this reporting requires updating of NORS.

Response: While not all States use the same software to collect their data, all States are required to report into NORS as a condition of receiving OAA funds. OMB Control Number: 0985–0005. In order to make changes to NORS, the AoA is required to publish, and invite public comment on, the proposal as well as provide estimates of any cost impact, as required by the Paperwork Reduction Act. We will invite additional public comment on any proposed changes to NORS as a result of the implementation of this rule. AoA estimates that the proposed changes would expand the reporting requirement from 8569 hours to 8621 hours.

Title: State Annual Long-Term Care Ombudsman Report.

OMB Control Number: 0985–0005.

Type of Request: Modification of Information Collection Request.

Respondents: 50 States, the District of Columbia and Puerto Rico.

Frequency: Annually.

Estimated Annual Burden on Respondents: 52 hours (52 respondents × 1 hour per year).

In addition, States are already required by section 712 of the Act to develop policies and procedures for the operation of the Long-Term Care Ombudsman Program. The final regulations are intended to clarify this existing requirement without creating any additional burden on States.

B. Executive Order 13132

Executive Order 13132 prohibits an agency from publishing any rule that has federalism implications if the rule either, imposes substantial direct compliance costs on State and local governments and is not required by statute, or the rule preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This rule does not have federalism impact as defined in the Executive Order.

C. Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 requires that a covered agency prepare a budgetary impact statement before promulgating a rule that includes any Federal mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year. If a covered agency must prepare a budgetary impact statement, section 205 further requires that it select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with the statutory requirements. In addition, section 203 requires a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

We have determined that this rule will not result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year. Accordingly, we have not prepared a budgetary impact statement, specifically addressed the regulatory alternatives considered, or prepared a plan for informing and advising any significantly or uniquely impacted small governments.

D. Assessment of Federal Regulations and Policies on Families

Section 654 of the Treasury and General Government Appropriations Act of 1999 requires Federal agencies to determine whether a proposed policy or regulation may affect family well-being. If the agency's determination is affirmative, then the agency must prepare an impact assessment addressing seven criteria specified in the law. This rule protects the confidentiality of information contained in the records of State child support enforcement agencies. This rule will not have an adverse impact on family well-being as defined in the legislation.

E. Plain Language in Government Writing

Pursuant to Executive Order 13563 of January 18, 2011, and Executive Order 12866 of September 30, 1993, Executive Departments and Agencies are directed to use plain language in all proposed and final rules. AoA believes it has used plain language in drafting the final rule, and has incorporated a number of revisions in the rule in order to respond to comments requesting further clarity.

[1] OMB No. 0985–0005.

List of Subjects

45 CFR Part 1321

Administrative practice and procedure, Aged, Grant programs—Indians, Grant programs—social programs, Indians, Legal services, Nutrition, Reporting and recordkeeping requirements.

45 CFR Part 1327

Administrative practice and procedure, Aged, Long-term care.

Dated: September 15, 2014.

Kathy Greenlee,

Administrator, Administration for Community Living. Assistant Secretary for Aging, Administration on Aging.

Approved: October 9, 2014.

Sylvia M. Burwell,

Secretary.

For the reasons stated in the preamble, the Administration on Aging, Administration for Community Living, U.S. Department of Health and Human Services, amends 45 CFR subchapter C as follows:

PART 1321—GRANTS TO STATE AND COMMUNITY PROGRAMS ON AGING

■ 1. The authority citation for part 1321 continues to read as follows:

Authority: 42 U.S.C. 3001 *et seq.;* title III of the Older Americans Act, as amended.

■ 2. Section 1321.11 is amended by revising paragraph (b) to read as follows:

§ 1321.11 State agency policies.

* * * * *

(b) The policies developed by the State agency shall address the manner in which the State agency will monitor the performance of all programs and activities initiated under this part for quality and effectiveness. The State Long-Term Care Ombudsman shall be responsible for monitoring the files, records and other information maintained by the Ombudsman program. Such monitoring may be conducted by a designee of the Ombudsman. Neither the Ombudsman nor a designee shall disclose identifying information of any complainant or long-term care facility resident to individuals outside of the Ombudsman program, except as otherwise specifically provided in § 1327.11(e)(3) of this chapter.

* * * * *

■ 3. Part 1327 is added to read as follows:

PART 1327—ALLOTMENTS FOR VULNERABLE ELDER RIGHTS PROTECTION ACTIVITIES

Subpart A—State Long-Term Care Ombudsman Program

Sec.
1327.1 Definitions.
1327.11 Establishment of the Office of the State Long-Term Care Ombudsman.
1327.13 Functions and responsibilities of the State Long-Term Care Ombudsman.
1327.15 State agency responsibilities related to the Ombudsman program.
1327.17 Responsibilities of agencies hosting local Ombudsman entities.
1327.19 Duties of the representatives of the Office.
1327.21 Conflicts of interest.

Subpart B—[Reserved]

Authority: 42 U.S.C. 3001 et seq.

Subpart A—State Long-Term Care Ombudsman Program

§ 1327.1 Definitions.

The following definitions apply to this part:

Immediate family, pertaining to conflicts of interest as used in section 712 of the Act, means a member of the household or a relative with whom there is a close personal or significant financial relationship.

Office of the State Long-Term Care Ombudsman, as used in sections 711 and 712 of the Act, means the organizational unit in a State or territory which is headed by a State Long-Term Care Ombudsman.

Representatives of the Office of the State Long-Term Care Ombudsman, as used in sections 711 and 712 of the Act, means the employees or volunteers designated by the Ombudsman to fulfill the duties set forth in § 1327.19(a), whether personnel supervision is provided by the Ombudsman or his or her designees or by an agency hosting a local Ombudsman entity designated by the Ombudsman pursuant to section 712(a)(5) of the Act.

Resident representative means any of the following:

(1) An individual chosen by the resident to act on behalf of the resident in order to support the resident in decision-making; access medical, social or other personal information of the resident; manage financial matters; or receive notifications;

(2) A person authorized by State or Federal law (including but not limited to agents under power of attorney, representative payees, and other fiduciaries) to act on behalf of the resident in order to support the resident in decision-making; access medical, social or other personal information of the resident; manage financial matters; or receive notifications;

(3) Legal representative, as used in section 712 of the Act; or

(4) The court-appointed guardian or conservator of a resident.

(5) Nothing in this rule is intended to expand the scope of authority of any resident representative beyond that authority specifically authorized by the resident, State or Federal law, or a court of competent jurisdiction.

State Long-Term Care Ombudsman, or Ombudsman, as used in sections 711 and 712 of the Act, means the individual who heads the Office and is responsible to personally, or through representatives of the Office, fulfill the functions, responsibilities and duties set forth in §§ 1327.13 and 1327.19.

State Long-Term Care Ombudsman program, Ombudsman program, or program, as used in sections 711 and 712 of the Act, means the program through which the functions and duties of the Office are carried out, consisting of the Ombudsman, the Office headed by the Ombudsman, and the representatives of the Office.

Willful interference means actions or inactions taken by an individual in an attempt to intentionally prevent, interfere with, or attempt to impede the Ombudsman from performing any of the functions or responsibilities set forth in § 1327.13, or the Ombudsman or a representative of the Office from performing any of the duties set forth in § 1327.19.

§ 1327.11 Establishment of the Office of the State Long-Term Care Ombudsman.

(a) The Office of the State Long-Term Care Ombudsman shall be an entity which shall be headed by the State Long-Term Care Ombudsman, who shall carry out all of the functions and responsibilities set forth in § 1327.13 and shall carry out, directly and/or through local Ombudsman entities, the duties set forth in § 1327.19.

(b) The State agency shall establish the Office and, thereby carry out the Long-Term Care Ombudsman program in any of the following ways:

(1) The Office is a distinct entity, separately identifiable, and located within or connected to the State agency; or

(2) The State agency enters into a contract or other arrangement with any public agency or nonprofit organization which shall establish a separately identifiable, distinct entity as the Office.

(c) The State agency shall require that the Ombudsman serve on a full-time basis. In providing leadership and management of the Office, the functions, responsibilities, and duties, as set forth

in §§ 1327.13 and 1327.19 are to constitute the entirety of the Ombudsman's work. The State agency or other agency carrying out the Office shall not require or request the Ombudsman to be responsible for leading, managing or performing the work of non-ombudsman services or programs except on a time-limited, intermittent basis.

(1) This provision does not limit the authority of the Ombudsman program to provide ombudsman services to populations other than residents of long-term care facilities so long as the appropriations under the Act are utilized to serve residents of long-term care facilities, as authorized by the Act.

(2) [Reserved]

(d) The State agency, and other entity selecting the Ombudsman, if applicable, shall ensure that the Ombudsman meets minimum qualifications which shall include, but not be limited to, demonstrated expertise in:

(1) Long-term services and supports or other direct services for older persons or individuals with disabilities;

(2) Consumer-oriented public policy advocacy;

(3) Leadership and program management skills; and

(4) Negotiation and problem resolution skills.

(e) *Policies and procedures.* Where the Ombudsman has the legal authority to do so, he or she shall establish policies and procedures, in consultation with the State agency, to carry out the Ombudsman program in accordance with the Act. Where State law does not provide the Ombudsman with legal authority to establish policies and procedures, the Ombudsman shall recommend policies and procedures to the State agency or other agency in which the Office is organizationally located, and such agency shall establish Ombudsman program policies and procedures. Where local Ombudsman entities are designated within area agencies on aging or other entities, the Ombudsman and/or appropriate agency shall develop such policies and procedures in consultation with the agencies hosting local Ombudsman entities and with representatives of the Office. The policies and procedures must address the matters within this subsection.

(1) *Program administration.* Policies and procedures regarding program administration must include, but not be limited to:

(i) A requirement that the agency in which the Office is organizationally located must not have personnel policies or practices which prohibit the Ombudsman from performing the functions and responsibilities of the Ombudsman, as set forth in § 1327.13, or from adhering to the requirements of section 712 of the Act. Nothing in this provision shall prohibit such agency from requiring that the Ombudsman, or other employees or volunteers of the Office, adhere to the personnel policies and procedures of the entity which are otherwise lawful.

(ii) A requirement that an agency hosting a local Ombudsman entity must not have personnel policies or practices which prohibit a representative of the Office from performing the duties of the Ombudsman program or from adhering to the requirements of section 712 of the Act. Nothing in this provision shall prohibit such agency from requiring that representatives of the Office adhere to the personnel policies and procedures of the host agency which are otherwise lawful.

(iii) A requirement that the Ombudsman shall monitor the performance of local Ombudsman entities which the Ombudsman has designated to carry out the duties of the Office.

(iv) A description of the process by which the agencies hosting local Ombudsman entities will coordinate with the Ombudsman in the employment or appointment of representatives of the Office.

(v) Standards to assure prompt response to complaints by the Office and/or local Ombudsman entities which prioritize abuse, neglect, exploitation and time-sensitive complaints and which consider the severity of the risk to the resident, the imminence of the threat of harm to the resident, and the opportunity for mitigating harm to the resident through provision of Ombudsman program services.

(vi) Procedures that clarify appropriate fiscal responsibilities of the local Ombudsman entity, including but not limited to clarifications regarding access to programmatic fiscal information by appropriate representatives of the Office.

(2) *Procedures for access.* Policies and procedures regarding timely access to facilities, residents, and appropriate records (regardless of format and including, upon request, copies of such records) by the Ombudsman and representatives of the Office must include, but not be limited to:

(i) Access to enter all long-term care facilities at any time during a facility's regular business hours or regular visiting hours, and at any other time when access may be required by the circumstances to be investigated;

(ii) Access to all residents to perform the functions and duties set forth in §§ 1327.13 and 1327.19;

(iii) Access to the name and contact information of the resident representative, if any, where needed to perform the functions and duties set forth in §§ 1327.13 and 1327.19;

(iv) Access to review the medical, social and other records relating to a resident, if—

(A) The resident or resident representative communicates informed consent to the access and the consent is given in writing or through the use of auxiliary aids and services;

(B) The resident or resident representative communicates informed consent orally, visually, or through the use of auxiliary aids and services, and such consent is documented contemporaneously by a representative of the Office in accordance with such procedures; and

(C) Access is necessary in order to investigate a complaint, the resident representative refuses to consent to the access, a representative of the Office has reasonable cause to believe that the resident representative is not acting in the best interests of the resident, and the representative of the Office obtains the approval of the Ombudsman;

(v) Access to the administrative records, policies, and documents, to which the residents have, or the general public has access, of long-term care facilities;

(vi) Access of the Ombudsman to, and, upon request, copies of all licensing and certification records maintained by the State with respect to long-term care facilities; and

(vii) Reaffirmation that the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule, 45 CFR part 160 and 45 CFR part 164, subparts A and E, does not preclude release by covered entities of resident private health information or other resident identifying information to the Ombudsman program, including but not limited to residents' medical, social, or other records, a list of resident names and room numbers, or information collected in the course of a State or Federal survey or inspection process.

(3) *Disclosure.* Policies and procedures regarding disclosure of files, records and other information maintained by the Ombudsman program must include, but not be limited to:

(i) Provision that the files, records, and information maintained by the Ombudsman program may be disclosed only at the discretion of the Ombudsman or designee of the Ombudsman for such purpose and in accordance with the criteria developed

by the Ombudsman, as required by § 1327.13(e);

(ii) Prohibition of the disclosure of identifying information of any resident with respect to whom the Ombudsman program maintains files, records, or information, except as otherwise provided by § 1327.19(b)(5) through (8), unless:

(A) The resident or the resident representative communicates informed consent to the disclosure and the consent is given in writing or through the use of auxiliary aids and services;

(B) The resident or resident representative communicates informed consent orally, visually, or through the use of auxiliary aids and services and such consent is documented contemporaneously by a representative of the Office in accordance with such procedures; or

(C) The disclosure is required by court order;

(iii) Prohibition of the disclosure of identifying information of any complainant with respect to whom the Ombudsman program maintains files, records, or information, unless:

(A) The complainant communicates informed consent to the disclosure and the consent is given in writing or through the use of auxiliary aids and services;

(B) The complainant communicates informed consent orally, visually, or through the use of auxiliary aids and services and such consent is documented contemporaneously by a representative of the Office in accordance with such procedures; or

(C) The disclosure is required by court order;

(iv) Exclusion of the Ombudsman and representatives of the Office from abuse reporting requirements, including when such reporting would disclose identifying information of a complainant or resident without appropriate consent or court order, except as otherwise provided in § 1327.19(b)(5) through (8); and

(v) Adherence to the provisions of paragraph (e)(3) of this section, regardless of the source of the request for information or the source of funding for the services of the Ombudsman program, notwithstanding section 705(a)(6)(c) of the Act.

(4) *Conflicts of interest.* Policies and procedures regarding conflicts of interest must establish mechanisms to identify and remove or remedy conflicts of interest as provided in § 1327.21, including:

(i) Ensuring that no individual, or member of the immediate family of an individual, involved in the employment or appointment of the Ombudsman is subject to a conflict of interest;

(ii) Requiring that other agencies in which the Office or local Ombudsman entities are organizationally located have policies in place to prohibit the employment or appointment of an Ombudsman or representatives of the Office with a conflict that cannot be adequately removed or remedied;

(iii) Requiring that the Ombudsman take reasonable steps to refuse, suspend or remove designation of an individual who has a conflict of interest, or who has a member of the immediate family with a conflict of interest, which cannot be adequately removed or remedied;

(iv) Establishing the methods by which the Office and/or State agency will periodically review and identify conflicts of the Ombudsman and representatives of the Office; and

(v) Establishing the actions the Office and/or State agency will require the Ombudsman or representatives of the Office to take in order to remedy or remove such conflicts.

(5) *Systems advocacy.* Policies and procedures related to systems advocacy must assure that the Office is required and has sufficient authority to carry out its responsibility to analyze, comment on, and monitor the development and implementation of Federal, State, and local laws, regulations, and other government policies and actions that pertain to long-term care facilities and services and to the health, safety, welfare, and rights of residents, and to recommend any changes in such laws, regulations, and policies as the Office determines to be appropriate.

(i) Such procedures must exclude the Ombudsman and representatives of the Office from any State lobbying prohibitions to the extent that such requirements are inconsistent with section 712 of the Act.

(ii) Nothing in this part shall prohibit the Ombudsman or the State agency or other agency in which the Office is organizationally located from establishing policies which promote consultation regarding the determinations of the Office related to recommended changes in laws, regulations, and policies. However, such a policy shall not require a right to review or pre-approve positions or communications of the Office.

(6) *Designation.* Policies and procedures related to designation must establish the criteria and process by which the Ombudsman shall designate and refuse, suspend or remove designation of local Ombudsman entities and representatives of the Office.

(i) Such criteria should include, but not be limited to, the authority to refuse, suspend or remove designation a local Ombudsman entity or representative of the Office in situations in which an identified conflict of interest cannot be adequately removed or remedied as set forth in § 1327.21.

(ii) [Reserved]

(7) *Grievance process.* Policies and procedures related to grievances must establish a grievance process for the receipt and review of grievances regarding the determinations or actions of the Ombudsman and representatives of the Office.

(i) Such process shall include an opportunity for reconsideration of the Ombudsman decision to refuse, suspend, or remove designation of a local Ombudsman entity or representative of the Office. Notwithstanding the grievance process, the Ombudsman shall make the final determination to designate or to refuse, suspend, or remove designation of a local Ombudsman entity or representative of the Office.

(ii) [Reserved]

(8) *Determinations of the Office.* Policies and procedures related to the determinations of the Office must ensure that the Ombudsman, as head of the Office, shall be able to independently make determinations and establish positions of the Office, without necessarily representing the determinations or positions of the State agency or other agency in which the Office is organizationally located, regarding:

(i) Disclosure of information maintained by the Ombudsman program within the limitations set forth in section 712(d) of the Act;

(ii) Recommendations to changes in Federal, State and local laws, regulations, policies and actions pertaining to the health, safety, welfare, and rights of residents; and

(iii) Provision of information to public and private agencies, legislators, the media, and other persons, regarding the problems and concerns of residents and recommendations related to the problems and concerns.

§ 1327.13 Functions and responsibilities of the State Long-Term Care Ombudsman.

The Ombudsman, as head of the Office, shall have responsibility for the leadership and management of the Office in coordination with the State agency, and, where applicable, any other agency carrying out the Ombudsman program, as follows.

(a) *Functions.* The Ombudsman shall, personally or through representatives of the Office—

(1) Identify, investigate, and resolve complaints that—

(i) Are made by, or on behalf of, residents; and

(ii) Relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of residents (including the welfare and rights of residents with respect to the appointment and activities of resident representatives) of—

(A) Providers, or representatives of providers, of long-term care;

(B) Public agencies; or

(C) Health and social service agencies.

(2) Provide services to protect the health, safety, welfare, and rights of the residents;

(3) Inform residents about means of obtaining services provided by the Ombudsman program;

(4) Ensure that residents have regular and timely access to the services provided through the Ombudsman program and that residents and complainants receive timely responses from representatives of the Office to requests for information and complaints;

(5) Represent the interests of residents before governmental agencies, assure that individual residents have access to, and pursue (as the Ombudsman determines as necessary and consistent with resident interests) administrative, legal, and other remedies to protect the health, safety, welfare, and rights of residents;

(6) Provide administrative and technical assistance to representatives of the Office and agencies hosting local Ombudsman entities;

(7)(i) Analyze, comment on, and monitor the development and implementation of Federal, State, and local laws, regulations, and other governmental policies and actions, that pertain to the health, safety, welfare, and rights of the residents, with respect to the adequacy of long-term care facilities and services in the State;

(ii) Recommend any changes in such laws, regulations, policies, and actions as the Office determines to be appropriate; and

(iii) Facilitate public comment on the laws, regulations, policies, and actions;

(iv) Provide leadership to statewide systems advocacy efforts of the Office on behalf of long-term care facility residents, including coordination of systems advocacy efforts carried out by representatives of the Office; and

(v) Provide information to public and private agencies, legislators, the media, and other persons, regarding the problems and concerns of residents and recommendations related to the problems and concerns.

(vi) Such determinations and positions shall be those of the Office and shall not necessarily represent the determinations or positions of the State agency or other agency in which the Office is organizationally located.

(vii) In carrying out systems advocacy efforts of the Office on behalf of long-term care facility residents and pursuant to the receipt of grant funds under the Act, the provision of information, recommendations of changes of laws to legislators, and recommendations of changes of regulations and policies to government agencies by the Ombudsman or representatives of the Office do not constitute lobbying activities as defined by 45 CFR part 93.

(8) Coordinate with and promote the development of citizen organizations consistent with the interests of residents; and

(9) Promote, provide technical support for the development of, and provide ongoing support as requested by resident and family councils to protect the well-being and rights of residents; and

(b) The Ombudsman shall be the head of a unified statewide program and shall:

(1) Establish or recommend policies, procedures and standards for administration of the Ombudsman program pursuant to § 1327.11(e);

(2) Require representatives of the Office to fulfill the duties set forth in § 1327.19 in accordance with Ombudsman program policies and procedures.

(c) *Designation.* The Ombudsman shall determine designation, and refusal, suspension, or removal of designation, of local Ombudsman entities and representatives of the Office pursuant to section 712(a)(5) of the Act and the policies and procedures set forth in § 1327.11(e)(6).

(1) Where an Ombudsman chooses to designate local Ombudsman entities, the Ombudsman shall:

(i) Designate local Ombudsman entities to be organizationally located within public or non-profit private entities;

(ii) Review and approve plans or contracts governing local Ombudsman entity operations, including, where applicable, through area agency on aging plans, in coordination with the State agency; and

(iii) Monitor, on a regular basis, the Ombudsman program performance of local Ombudsman entities.

(2) *Training requirements.* The Ombudsman shall establish procedures for training for certification and continuing education of the representatives of the Office, based on model standards established by the Director of the Office of Long-Term Care Ombudsman Programs as described in section 201(d) of the Act, in consultation with residents, resident representatives, citizen organizations, long-term care providers, and the State agency, that—

(i) Specify a minimum number of hours of initial training;

(ii) Specify the content of the training, including training relating to Federal, State, and local laws, regulations, and policies, with respect to long-term care facilities in the State; investigative and resolution techniques; and such other matters as the Office determines to be appropriate; and

(iii) Specify an annual number of hours of in-service training for all representatives of the Office;

(3) Prohibit any representative of the Office from carrying out the duties described in § 1327.19 unless the representative—

(i) Has received the training required under paragraph (c)(2) of this section or is performing such duties under supervision of the Ombudsman or a designated representative of the Office as part of certification training requirements; and

(ii) Has been approved by the Ombudsman as qualified to carry out the activity on behalf of the Office;

(4) The Ombudsman shall investigate allegations of misconduct by representatives of the Office in the performance of Ombudsman program duties and, as applicable, coordinate such investigations with the State agency in which the Office is organizationally located, agency hosting the local Ombudsman entity and/or the local Ombudsman entity.

(5) Policies, procedures, or practices which the Ombudsman determines to be in conflict with the laws, policies, or procedures governing the Ombudsman program shall be sufficient grounds for refusal, suspension, or removal of designation of the representative of the Office and/or the local Ombudsman entity.

(d) *Ombudsman program information.* The Ombudsman shall manage the files, records, and other information of the Ombudsman program, whether in physical, electronic, or other formats, including information maintained by representatives of the Office and local Ombudsman entities pertaining to the cases and activities of the Ombudsman program. Such files, records, and other information are the property of the Office. Nothing in this provision shall prohibit a representative of the Office or a local Ombudsman entity from

maintaining such information in accordance with Ombudsman program requirements.

(e) *Disclosure.* In making determinations regarding the disclosure of files, records and other information maintained by the Ombudsman program, the Ombudsman shall:

(1) Have the sole authority to make or delegate determinations concerning the disclosure of the files, records, and other information maintained by the Ombudsman program. The Ombudsman shall comply with section 712(d) of the Act in responding to requests for disclosure of files, records, and other information, regardless of the format of such file, record, or other information, the source of the request, and the sources of funding to the Ombudsman program;

(2) Develop and adhere to criteria to guide the Ombudsman's discretion in determining whether to disclose the files, records or other information of the Office; and

(3) Develop and adhere to a process for the appropriate disclosure of information maintained by the Office, including:

(i) Classification of at least the following types of files, records, and information: medical, social and other records of residents; administrative records, policies, and documents of long-term care facilities; licensing and certification records maintained by the State with respect to long-term care facilities; and data collected in the Ombudsman program reporting system; and

(ii) Identification of the appropriate individual designee or category of designee, if other than the Ombudsman, authorized to determine the disclosure of specific categories of information in accordance with the criteria described in paragraph (e) of this section.

(f) *Fiscal management.* The Ombudsman shall determine the use of the fiscal resources appropriated or otherwise available for the operation of the Office. Where local Ombudsman entities are designated, the Ombudsman shall approve the allocations of Federal and State funds provided to such entities, subject to applicable Federal and State laws and policies. The Ombudsman shall determine that program budgets and expenditures of the Office and local Ombudsman entities are consistent with laws, policies and procedures governing the Ombudsman program.

(g) *Annual report.* The Ombudsman shall independently develop and provide final approval of an annual report as set forth in section 712(h)(1) of the Act and as otherwise required by the Assistant Secretary.

(1) Such report shall:

(i) Describe the activities carried out by the Office in the year for which the report is prepared;

(ii) Contain analysis of Ombudsman program data;

(iii) Describe evaluation of the problems experienced by, and the complaints made by or on behalf of, residents;

(iv) Contain policy, regulatory, and/or legislative recommendations for improving quality of the care and life of the residents; protecting the health, safety, welfare, and rights of the residents; and resolving resident complaints and identified problems or barriers;

(v) Contain analysis of the success of the Ombudsman program, including success in providing services to residents of, assisted living, board and care facilities and other similar adult care facilities; and

(vi) Describe barriers that prevent the optimal operation of the Ombudsman program.

(2) The Ombudsman shall make such report available to the public and submit it to the Assistant Secretary, the chief executive officer of the State, the State legislature, the State agency responsible for licensing or certifying long-term care facilities, and other appropriate governmental entities.

(h) Through adoption of memoranda of understanding and other means, the Ombudsman shall lead state-level coordination, and support appropriate local Ombudsman entity coordination, between the Ombudsman program and other entities with responsibilities relevant to the health, safety, well-being or rights of residents of long-term care facilities including, but not limited to:

(1) Area agency on aging programs;

(2) Aging and disability resource centers;

(3) Adult protective services programs;

(4) Protection and advocacy systems, as designated by the State, and as established under the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15001 *et seq.*);

(5) Facility and long-term care provider licensure and certification programs;

(6) The State Medicaid fraud control unit, as defined in section 1903(q) of the Social Security Act (42 U.S.C. 1396b(q));

(7) Victim assistance programs;

(8) State and local law enforcement agencies;

(9) Courts of competent jurisdiction; and

(10) The State legal assistance developer and legal assistance programs, including those provided under section 306(a)(2)(C) of the Act.

(i) The Ombudsman shall carry out such other activities as the Assistant Secretary determines to be appropriate.

§ 1327.15 State agency responsibilities related to the Ombudsman program.

(a) In addition to the responsibilities set forth in part 1321 of this chapter, the State agency shall ensure that the Ombudsman complies with the relevant provisions of the Act and of this rule.

(b) The State agency shall ensure, through the development of policies, procedures, and other means, consistent with § 1327.11(e)(2), that the Ombudsman program has sufficient authority and access to facilities, residents, and information needed to fully perform all of the functions, responsibilities, and duties of the Office.

(c) The State agency shall provide opportunities for training for the Ombudsman and representatives of the Office in order to maintain expertise to serve as effective advocates for residents. The State agency may utilize funds appropriated under Title III and/or Title VII of the Act designated for direct services in order to provide access to such training opportunities.

(d) The State agency shall provide personnel supervision and management for the Ombudsman and representatives of the Office who are employees of the State agency. Such management shall include an assessment of whether the Office is performing all of its functions under the Act.

(e) The State agency shall provide monitoring, as required by § 1321.11(b) of this chapter, including but not limited to fiscal monitoring, where the Office and/or local Ombudsman entity is organizationally located within an agency under contract or other arrangement with the State agency. Such monitoring shall include an assessment of whether the Ombudsman program is performing all of the functions, responsibilities and duties set forth in §§ 1327.13 and 1327.19. The State agency may make reasonable requests of reports, including aggregated data regarding Ombudsman program activities, to meet the requirements of this provision.

(f) The State agency shall ensure that any review of files, records or other information maintained by the Ombudsman program is consistent with the disclosure limitations set forth in §§ 1327.11(e)(3) and 1327.13(e).

(g) The State agency shall integrate the goals and objectives of the Office into the State plan and coordinate the goals and objectives of the Office with those of other programs established

under Title VII of the Act and other State elder rights, disability rights, and elder justice programs, including, but not limited to, legal assistance programs provided under section 306(a)(2)(C) of the Act, to promote collaborative efforts and diminish duplicative efforts. Where applicable, the State agency shall require inclusion of goals and objectives of local Ombudsman entities into area plans on aging.

(h) The State agency shall provide elder rights leadership. In so doing, it shall require the coordination of Ombudsman program services with, the activities of other programs authorized by Title VII of the Act as well as other State and local entities with responsibilities relevant to the health, safety, well-being or rights of older adults, including residents of long-term care facilities as set forth in § 1327.13(h).

(i) *Interference, retaliation and reprisals.* The State agency shall:

(1) Ensure that it has mechanisms to prohibit and investigate allegations of interference, retaliation and reprisals:

(i) by a long-term care facility, other entity, or individual with respect to any resident, employee, or other person for filing a complaint with, providing information to, or otherwise cooperating with any representative of the Office; or

(ii) by a long-term care facility, other entity or individual against the Ombudsman or representatives of the Office for fulfillment of the functions, responsibilities, or duties enumerated at §§ 1327.13 and 1327.19; and

(2) Provide for appropriate sanctions with respect to interference, retaliation and reprisals.

(j) *Legal counsel.* (1) The State agency shall ensure that:

(i) Legal counsel for the Ombudsman program is adequate, available, has competencies relevant to the legal needs of the program and of residents, and is without conflict of interest (as defined by the State ethical standards governing the legal profession), in order to—

(A) Provide consultation and representation as needed in order for the Ombudsman program to protect the health, safety, welfare, and rights of residents; and

(B) Provide consultation and/or representation as needed to assist the Ombudsman and representatives of the Office in the performance of their official functions, responsibilities, and duties, including, but not limited to, complaint resolution and systems advocacy;

(ii) The Ombudsman and representatives of the Office assist residents in seeking administrative, legal, and other appropriate remedies. In so doing, the Ombudsman shall coordinate with the legal services developer, legal services providers, and victim assistance services to promote the availability of legal counsel to residents; and

(iii) Legal representation, arranged by or with the approval of the Ombudsman, is provided to the Ombudsman or any representative of the Office against whom suit or other legal action is brought or threatened to be brought in connection with the performance of the official duties.

(2) Such legal counsel may be provided by one or more entities, depending on the nature of the competencies and services needed and as necessary to avoid conflicts of interest (as defined by the State ethical standards governing the legal profession). However, at a minimum, the Office shall have access to an attorney knowledgeable about the Federal and State laws protecting the rights of residents and governing long-term care facilities.

(3) Legal representation of the Ombudsman program by the Ombudsman or representative of the Office who is a licensed attorney shall not by itself constitute sufficiently adequate legal counsel.

(4) The communications between the Ombudsman and legal counsel are subject to attorney-client privilege.

(k) The State agency shall require the Office to:

(1) Develop and provide final approval of an annual report as set forth in section 712(h)(1) of the Act and § 1327.13(g) and as otherwise required by the Assistant Secretary.

(2) Analyze, comment on, and monitor the development and implementation of Federal, State, and local laws, regulations, and other government policies and actions that pertain to long-term care facilities and services, and to the health, safety, welfare, and rights of residents, in the State, and recommend any changes in such laws, regulations, and policies as the Office determines to be appropriate;

(3) Provide such information as the Office determines to be necessary to public and private agencies, legislators, the media, and other persons, regarding the problems and concerns of individuals residing in long-term care facilities; and recommendations related to such problems and concerns; and

(4) Establish procedures for the training of the representatives of the Office, as set forth in § 1327.13(c)(2).

(5) Coordinate Ombudsman program services with entities with responsibilities relevant to the health, safety, welfare, and rights of residents of long-term care facilities, as set forth in § 1327.13(h).

§ 1327.17 Responsibilities of agencies hosting local Ombudsman entities.

(a) The agency in which a local Ombudsman entity is organizationally located shall be responsible for the personnel management, but not the programmatic oversight, of representatives, including employee and volunteer representatives, of the Office.

(b) The agency in which a local Ombudsman entity is organizationally located shall not have personnel policies or practices which prohibit the representatives of the Office from performing the duties, or from adhering to the access, confidentiality and disclosure requirements of section 712 of the Act, as implemented through this rule and the policies and procedures of the Office.

(1) Policies, procedures and practices, including personnel management practices of the host agency, which the Ombudsman determines conflict with the laws or policies governing the Ombudsman program shall be sufficient grounds for the refusal, suspension, or removal of the designation of local Ombudsman entity by the Ombudsman.

(2) Nothing in this provision shall prohibit the host agency from requiring that the representatives of the Office adhere to the personnel policies and procedures of the agency which are otherwise lawful.

§ 1327.19 Duties of the representatives of the Office.

In carrying out the duties of the Office, the Ombudsman may designate an entity as a local Ombudsman entity and may designate an employee or volunteer of the local Ombudsman entity as a representative of the Office. Representatives of the Office may also be designated employees or volunteers within the Office.

(a) *Duties.* An individual so designated as a representative of the Office shall, in accordance with the policies and procedures established by the Office and the State agency:

(1) Identify, investigate, and resolve complaints made by or on behalf of residents that relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of the residents;

(2) Provide services to protect the health, safety, welfare, and rights of residents;

(3) Ensure that residents in the service area of the local Ombudsman entity have regular and timely access to the services provided through the Ombudsman program and that residents

and complainants receive timely responses to requests for information and complaints;

(4) Represent the interests of residents before government agencies and assure that individual residents have access to, and pursue (as the representative of the Office determines necessary and consistent with resident interest) administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents;

(5)(i) Review, and if necessary, comment on any existing and proposed laws, regulations, and other government policies and actions, that pertain to the rights and well-being of residents; and

(ii) Facilitate the ability of the public to comment on the laws, regulations, policies, and actions;

(6) Promote, provide technical support for the development of, and provide ongoing support as requested by resident and family councils; and

(7) Carry out other activities that the Ombudsman determines to be appropriate.

(b) *Complaint processing.* (1) With respect to identifying, investigating and resolving complaints, and regardless of the source of the complaint (*i.e.* complainant), the Ombudsman and the representatives of the Office serve the resident of a long-term care facility. The Ombudsman or representative of the Office shall investigate a complaint, including but not limited to a complaint related to abuse, neglect, or exploitation, for the purposes of resolving the complaint to the resident's satisfaction and of protecting the health, welfare, and rights of the resident. The Ombudsman or representative of the Office may identify, investigate and resolve a complaint impacting multiple residents or all residents of a facility.

(2) Regardless of the source of the complaint (*i.e.* the complainant), including when the source is the Ombudsman or representative of the Office, the Ombudsman or representative of the Office must support and maximize resident participation in the process of resolving the complaint as follows:

(i) The Ombudsman or representative of Office shall offer privacy to the resident for the purpose of confidentially providing information and hearing, investigating and resolving complaints.

(ii) The Ombudsman or representative of the Office shall personally discuss the complaint with the resident (and, if the resident is unable to communicate informed consent, the resident's representative) in order to:

(A) Determine the perspective of the resident (or resident representative, where applicable) of the complaint;

(B) Request the resident (or resident representative, where applicable) to communicate informed consent in order to investigate the complaint;

(C) Determine the wishes of the resident (or resident representative, where applicable) with respect to resolution of the complaint, including whether the allegations are to be reported and, if so, whether Ombudsman or representative of the Office may disclose resident identifying information or other relevant information to the facility and/or appropriate agencies. Such report and disclosure shall be consistent with paragraph (b)(3) of this section;

(D) Advise the resident (and resident representative, where applicable) of the resident's rights;

(E) Work with the resident (or resident representative, where applicable) to develop a plan of action for resolution of the complaint;

(F) Investigate the complaint to determine whether the complaint can be verified; and

(G) Determine whether the complaint is resolved to the satisfaction of the resident (or resident representative, where applicable).

(iii) Where the resident is unable to communicate informed consent, and has no resident representative, the Ombudsman or representative of the Office shall:

(A) Take appropriate steps to investigate and work to resolve the complaint in order to protect the health, safety, welfare and rights of the resident; and

(B) Determine whether the complaint was resolved to the satisfaction of the complainant.

(iv) In determining whether to rely upon a resident representative to communicate or make determinations on behalf of the resident related to complaint processing, the Ombudsman or representative of the Office shall ascertain the extent of the authority that has been granted to the resident representative under court order (in the case of a guardian or conservator), by power of attorney or other document by which the resident has granted authority to the representative, or under other applicable State or Federal law.

(3) The Ombudsman or representative of the Office may provide information regarding the complaint to another agency in order for such agency to substantiate the facts for regulatory, protective services, law enforcement, or other purposes so long as the Ombudsman or representative of the Office adheres to the disclosure requirements of section 712(d) of the Act and the procedures set forth in § 1327.11(e)(3).

(i) Where the goals of a resident or resident representative are for regulatory, protective services or law enforcement action, and the Ombudsman or representative of the Office determines that the resident or resident representative has communicated informed consent to the Office, the Office must assist the resident or resident representative in contacting the appropriate agency and/or disclose the information for which the resident has provided consent to the appropriate agency for such purposes.

(ii) Where the goals of a resident or resident representative can be served by disclosing information to a facility representative and/or referrals to an entity other than those referenced in paragraph (b)(3)(i) of this section, and the Ombudsman or representative of the Office determines that the resident or resident representative has communicated informed consent to the Ombudsman program, the Ombudsman or representative of the Office may assist the resident or resident representative in contacting the appropriate facility representative or the entity, provide information on how a resident or representative may obtain contact information of such facility representatives or entities, and/or disclose the information for which the resident has provided consent to an appropriate facility representative or entity, consistent with Ombudsman program procedures.

(iii) In order to comply with the wishes of the resident, (or, in the case where the resident is unable to communicate informed consent, the wishes of the resident representative), the Ombudsman and representatives of the Office shall not report suspected abuse, neglect or exploitation of a resident when a resident or resident representative has not communicated informed consent to such report except as set forth in paragraphs (b)(5) through (7) of this section, notwithstanding State laws to the contrary.

(4) For purposes of paragraphs (b)(1) through (3) of this section, communication of informed consent may be made in writing, including through the use of auxiliary aids and services. Alternatively, communication may be made orally or visually, including through the use of auxiliary aids and services, and such consent must be documented contemporaneously by the Ombudsman or a representative of the Office, in

accordance with the procedures of the Office;

(5) For purposes of paragraphs (b)(1) paragraph (3) of this section, if a resident is unable to communicate his or her informed consent, or perspective on the extent to which the matter has been satisfactorily resolved, the Ombudsman or representative of the Office may rely on the communication of informed consent and/or perspective regarding the resolution of the complaint of a resident representative so long as the Ombudsman or representative of the Office has no reasonable cause to believe that the resident representative is not acting in the best interests of the resident.

(6) For purposes of paragraphs (b)(1) through (3) of this section, the procedures for disclosure, as required by § 1327.11(e)(3), shall provide that the Ombudsman or representative of the Office may refer the matter and disclose resident-identifying information to the appropriate agency or agencies for regulatory oversight; protective services; access to administrative, legal, or other remedies; and/or law enforcement action in the following circumstances:

(i) The resident is unable to communicate informed consent to the Ombudsman or representative of the Office;

(ii) The resident has no resident representative;

(iii) The Ombudsman or representative of the Office has reasonable cause to believe that an action, inaction or decision may adversely affect the health, safety, welfare, or rights of the resident;

(iv) The Ombudsman or representative of the Office has no evidence indicating that the resident would not wish a referral to be made;

(v) The Ombudsman or representative of the Office has reasonable cause to believe that it is in the best interest of the resident to make a referral; and

(vi) The representative of the Office obtains the approval of the Ombudsman or otherwise follows the policies and procedures of the Office described in paragraph (b)(9) of this section.

(7) For purposes of paragraphs (b)(1) through (3) of this section, the procedures for disclosure, as required by § 1327.11(e)(3), shall provide that, the Ombudsman or representative of the Office may refer the matter and disclose resident-identifying information to the appropriate agency or agencies for regulatory oversight; protective services; access to administrative, legal, or other remedies; and/or law enforcement action in the following circumstances:

(i) The resident is unable to communicate informed consent to the Ombudsman or representative of the Office and has no resident representative, or the Ombudsman or representative of the Office has reasonable cause to believe that the resident representative has taken an action, inaction or decision that may adversely affect the health, safety, welfare, or rights of the resident;

(ii) The Ombudsman or representative of the Office has no evidence indicating that the resident would not wish a referral to be made;

(iii) The Ombudsman or representative of the Office has reasonable cause to believe that it is in the best interest of the resident to make a referral; and

(iv) The representative of the Ombudsman obtains the approval of the Ombudsman.

(8) The procedures for disclosure, as required by § 1327.11(e)(3), shall provide that, if the Ombudsman or representative of the Office personally witnesses suspected abuse, gross neglect, or exploitation of a resident, the Ombudsman or representative of the Office shall seek communication of informed consent from such resident to disclose resident-identifying information to appropriate agencies;

(i) Where such resident is able to communicate informed consent, or has a resident representative available to provide informed consent, the Ombudsman or representative of the Office shall follow the direction of the resident or resident representative as set forth paragraphs (b)(1) through (3) of this section; and

(ii) Where the resident is unable to communicate informed consent, and has no resident representative available to provide informed consent, the Ombudsman or representative of the Office shall open a case with the Ombudsman or representative of the Office as the complainant, follow the Ombudsman program's complaint resolution procedures, and shall refer the matter and disclose identifying information of the resident to the management of the facility in which the resident resides and/or to the appropriate agency or agencies for substantiation of abuse, gross neglect or exploitation in the following circumstances:

(A) The Ombudsman or representative of the Office has no evidence indicating that the resident would not wish a referral to be made;

(B) The Ombudsman or representative of the Office has reasonable cause to believe that disclosure would be in the best interest of the resident; and

(C) The representative of the Office obtains the approval of the Ombudsman or otherwise follows the policies and procedures of the Office described in paragraph (b)(9) of this section.

(iii) In addition, the Ombudsman or representative of the Office, following the policies and procedures of the Office described in paragraph (b)(9) of this section, may report the suspected abuse, gross neglect, or exploitation to other appropriate agencies for regulatory oversight; protective services; access to administrative, legal, or other remedies; and/or law enforcement action.

(9) Prior to disclosing resident-identifying information pursuant to paragraph (b)(6) or (8) of this section, a representative of the Office must obtain approval by the Ombudsman or, alternatively, follow policies and procedures of the Office which provide for such disclosure.

(i) Where the policies and procedures require Ombudsman approval, they shall include a time frame in which the Ombudsman is required to communicate approval or disapproval in order to assure that the representative of the Office has the ability to promptly take actions to protect the health, safety, welfare or rights of residents.

(ii) Where the policies and procedures do not require Ombudsman approval prior to disclosure, they shall require that the representative of the Office promptly notify the Ombudsman of any disclosure of resident-identifying information under the circumstances set forth in paragraph (b)(6) or (8) of this section.

(iii) Disclosure of resident-identifying information under paragraph (b)(7) of this section shall require Ombudsman approval.

§ 1327.21 Conflicts of interest.

The State agency and the Ombudsman shall consider both the organizational and individual conflicts of interest that may impact the effectiveness and credibility of the work of the Office. In so doing, both the State agency and the Ombudsman shall be responsible to identify actual and potential conflicts and, where a conflict has been identified, to remove or remedy such conflict as set forth in paragraphs (b) and (d) of this section.

(a) *Identification of organizational conflicts.* In identifying conflicts of interest pursuant to section 712(f) of the Act, the State agency and the Ombudsman shall consider the organizational conflicts that may impact the effectiveness and credibility of the work of the Office. Organizational conflicts of interest include, but are not limited to, placement of the Office, or requiring that an Ombudsman or representative of the Office perform

conflicting activities, in an organization that:

(1) Is responsible for licensing, surveying, or certifying long-term care facilities;

(2) Is an association (or an affiliate of such an association) of long-term care facilities, or of any other residential facilities for older individuals or individuals with disabilities;

(3) Has any ownership or investment interest (represented by equity, debt, or other financial relationship) in, or receives grants or donations from, a long-term care facility;

(4) Has governing board members with any ownership, investment or employment interest in long-term care facilities;

(5) Provides long-term care to residents of long-term care facilities, including the provision of personnel for long-term care facilities or the operation of programs which control access to or services for long-term care facilities;

(6) Provides long-term care coordination or case management for residents of long-term care facilities;

(7) Sets reimbursement rates for long-term care facilities;

(8) Provides adult protective services;

(9) Is responsible for eligibility determinations regarding Medicaid or other public benefits for residents of long-term care facilities;

(10) Conducts preadmission screening for long-term care facility placements;

(11) Makes decisions regarding admission or discharge of individuals to or from long-term care facilities; or

(12) Provides guardianship, conservatorship or other fiduciary or surrogate decision-making services for residents of long-term care facilities.

(b) *Removing or remedying organizational conflicts.* The State agency and the Ombudsman shall identify and take steps to remove or remedy conflicts of interest between the Office and the State agency or other agency carrying out the Ombudsman program.

(1) The Ombudsman shall identify organizational conflicts of interest in the Ombudsman program and describe steps taken to remove or remedy conflicts within the annual report submitted to the Assistant Secretary through the National Ombudsman Reporting System.

(2) Where the Office is located within or otherwise organizationally attached to the State agency, the State agency shall:

(i) Take reasonable steps to avoid internal conflicts of interest;

(ii) Establish a process for review and identification of internal conflicts;

(iii) Take steps to remove or remedy conflicts;

(iv) Ensure that no individual, or member of the immediate family of an individual, involved in the designating, appointing, otherwise selecting or terminating the Ombudsman is subject to a conflict of interest; and

(v) Assure that the Ombudsman has disclosed such conflicts and described steps taken to remove or remedy conflicts within the annual report submitted to the Assistant Secretary through the National Ombudsman Reporting System.

(3) Where a State agency is unable to adequately remove or remedy a conflict, it shall carry out the Ombudsman program by contract or other arrangement with a public agency or nonprofit private organization, pursuant to section 712(a)(4) of the Act. The State agency may not enter into a contract or other arrangement to carry out the Ombudsman program if the other entity, and may not operate the Office directly if it:

(i) Is responsible for licensing, surveying, or certifying long-term care facilities;

(ii) Is an association (or an affiliate of such an association) of long-term care facilities, or of any other residential facilities for older individuals or individuals with disabilities; or

(iii) Has any ownership, operational, or investment interest (represented by equity, debt, or other financial relationship) in a long-term care facility.

(4) Where the State agency carries out the Ombudsman program by contract or other arrangement with a public agency or nonprofit private organization, pursuant to section 712(a)(4) of the Act, the State agency shall:

(i) Prior to contracting or making another arrangement, take reasonable steps to avoid conflicts of interest in such agency or organization which is to carry out the Ombudsman program and to avoid conflicts of interest in the State agency's oversight of the contract or arrangement;

(ii) Establish a process for periodic review and identification of conflicts;

(iii) Establish criteria for approval of steps taken by the agency or organization to remedy or remove conflicts;

(iv) Require that such agency or organization have a process in place to:

(A) Take reasonable steps to avoid conflicts of interest, and

(B) Disclose identified conflicts and steps taken to remove or remedy conflicts to the State agency for review and approval.

(5) Where an agency or organization carrying out the Ombudsman program by contract or other arrangement develops a conflict and is unable to adequately remove or remedy a conflict, the State agency shall either operate the Ombudsman program directly or by contract or other arrangement with another public agency or nonprofit private organization. The State agency shall not enter into such contract or other arrangement with an agency or organization which is responsible for licensing or certifying long-term care facilities in the state or is an association (or affiliate of such an association) of long-term care facilities.

(6) Where local Ombudsman entities provide Ombudsman services, the Ombudsman shall:

(i) Prior to designating or renewing designation, take reasonable steps to avoid conflicts of interest in any agency which may host a local Ombudsman entity.

(ii) Establish a process for periodic review and identification of conflicts of interest with the local Ombudsman entity in any agencies hosting a local Ombudsman entity,

(iii) Require that such agencies disclose identified conflicts of interest with the local Ombudsman entity and steps taken to remove or remedy conflicts within such agency to the Ombudsman,

(iv) Establish criteria for approval of steps taken to remedy or remove conflicts in such agencies, and

(v) Establish a process for review of and criteria for approval of plans to remove or remedy conflicts with the local Ombudsman entity in such agencies.

(7) Failure of an agency hosting a local Ombudsman entity to disclose a conflict to the Office or inability to adequately remove or remedy a conflict shall constitute grounds for refusal, suspension or removal of designation of the local Ombudsman entity by the Ombudsman.

(c) *Identifying individual conflicts of interest.* (1) In identifying conflicts of interest pursuant to section 712(f) of the Act, the State agency and the Ombudsman shall consider individual conflicts that may impact the effectiveness and credibility of the work of the Office.

(2) Individual conflicts of interest for an Ombudsman, representatives of the Office, and members of their immediate family include, but are not limited to:

(i) Direct involvement in the licensing or certification of a long-term care facility;

(ii) Ownership, operational, or investment interest (represented by equity, debt, or other financial relationship) in an existing or proposed long-term care facility;

(iii) Employment of an individual by, or participation in the management of, a long-term care facility in the service area or by the owner or operator of any long-term care facility in the service area;

(iv) Receipt of, or right to receive, directly or indirectly, remuneration (in cash or in kind) under a compensation arrangement with an owner or operator of a long-term care facility;

(v) Accepting gifts or gratuities of significant value from a long-term care facility or its management, a resident or a resident representative of a long-term care facility in which the Ombudsman or representative of the Office provides services (except where there is a personal relationship with a resident or resident representative which is separate from the individual's role as Ombudsman or representative of the Office);

(vi) Accepting money or any other consideration from anyone other than the Office, or an entity approved by the Ombudsman, for the performance of an act in the regular course of the duties of the Ombudsman or the representatives of the Office without Ombudsman approval;

(vii) Serving as guardian, conservator or in another fiduciary or surrogate decision-making capacity for a resident of a long-term care facility in which the Ombudsman or representative of the Office provides services; and

(viii) Serving residents of a facility in which an immediate family member resides.

(d) *Removing or remedying individual conflicts.* (1) The State agency or Ombudsman shall develop and implement policies and procedures, pursuant to § 1327.11(e)(4), to ensure that no Ombudsman or representatives of the Office are required or permitted to hold positions or perform duties that would constitute a conflict of interest as set forth in § 1327.21(c). This rule does not prohibit a State agency or Ombudsman from having policies or procedures that exceed these requirements.

(2) When considering the employment or appointment of an individual as the Ombudsman or as a representative of the Office, the State agency or other employing or appointing entity shall:

(i) Take reasonable steps to avoid employing or appointing an individual who has an unremedied conflict of interest or who has a member of the immediate family with an unremedied conflict of interest;

(ii) Take reasonable steps to avoid assigning an individual to perform duties which would constitute an unremedied conflict of interest;

(iii) Establish a process for periodic review and identification of conflicts of the Ombudsman and representatives of the Office, and

(iv) Take steps to remove or remedy conflicts.

(3) In no circumstance shall the entity, which appoints or employs the Ombudsman, appoint or employ an individual as the Ombudsman who:

(i) Has direct involvement in the licensing or certification of a long-term care facility;

(ii) Has an ownership or investment interest (represented by equity, debt, or other financial relationship) in a long-term care facility. Divestment within a reasonable period may be considered an adequate remedy to this conflict;

(iii) Has been employed by or participating in the management of a long-term care facility within the previous twelve months.

(iv) Receives, or has the right to receive, directly or indirectly, remuneration (in cash or in kind) under a compensation arrangement with an owner or operator of a long-term care facility.

(4) In no circumstance shall the State agency, other agency which carries out the Office, or an agency hosting a local Ombudsman entity appoint or employ an individual, nor shall the Ombudsman designate an individual, as a representative of the Office who:

(i) Has direct involvement in the licensing or certification of a long-term care facility;

(ii) Has an ownership or investment interest (represented by equity, debt, or other financial relationship) in a long-term care facility. Divestment within a reasonable period may be considered an adequate remedy to this conflict;

(iii) Receives, directly or indirectly, remuneration (in cash or in kind) under a compensation arrangement with an owner or operator of a long-term care facility; or

(iv) Is employed by, or participating in the management of, a long-term care facility.

(A) An agency which appoints or employs representatives of the Office shall make efforts to avoid appointing or employing an individual as a representative of the Office who has been employed by or participating in the management of a long-term care facility within the previous twelve months.

(B) Where such individual is appointed or employed, the agency shall take steps to remedy the conflict.

Subpart B—[Reserved]

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Part III

Bureau of Consumer Financial Protection

12 CFR Part 1026

Amendments Relating to Small Creditors and Rural or Underserved Areas Under the Truth in Lending Act (Regulation Z); Proposed Rule

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1026

[Docket No. CFPB–2015–0004]

RIN 3170–AA43

Amendments Relating to Small Creditors and Rural or Underserved Areas Under the Truth in Lending Act (Regulation Z)

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Proposed rule with request for public comment.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) proposes amendments to certain mortgage rules issued in 2013. The proposed rule revises the Bureau's regulatory definitions of small creditor, and rural and underserved areas, for purposes of certain special provisions and exemptions from various requirements provided to certain small creditors under the Bureau's rules.

DATES: Comments must be received on or before March 30, 2015.

ADDRESSES: You may submit comments, identified by Docket No. CFPB–2015–0004 or RIN 3170–AA43, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: FederalRegisterComments@cfpb.gov.* Include CFPB–2015–0004 AND/OR RIN 3170–AA43 in the subject line of the message.
- *Mail:* Monica Jackson, Office of the Executive Secretary, Consumer Financial Protection Bureau, 1700 G Street NW., Washington, DC 20552.
- *Hand Delivery/Courier:* Monica Jackson, Office of the Executive Secretary, Consumer Financial Protection Bureau, 1275 First Street NE., Washington, DC 20002.

Instructions: All submissions should include the agency name and docket number or Regulatory Information Number (RIN) for this rulemaking. Because paper mail in the Washington, DC area and at the Bureau is subject to delay, commenters are encouraged to submit comments electronically. In general, all comments received will be posted without change to *http://www.regulations.gov.* In addition, comments will be available for public inspection and copying at 1275 First Street NE., Washington, DC 20002, on official business days between the hours of 10 a.m. and 5 p.m. Eastern Time. You can make an appointment to inspect the documents by telephoning (202) 435–7275.

All comments, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Sensitive personal information, such as account numbers or Social Security numbers, should not be included. Comments generally will not be edited to remove any identifying or contact information.

FOR FURTHER INFORMATION CONTACT: Amanda Quester, Senior Counsel, or Paul Ceja, Senior Counsel and Special Advisor, Office of Regulations, at (202) 435–7700.

SUPPLEMENTARY INFORMATION:

I. Summary of the Proposed Rule

In January 2013, the Bureau issued several final rules concerning mortgage markets in the United States (2013 Title XIV Final Rules), pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), Public Law 111–203, 124 Stat. 1376 (2010).[1] The Bureau has clarified and revised those rules over the past two years. The purpose of those updates was to address important questions raised by industry, consumer groups, or other stakeholders. The Bureau has also indicated that it would revisit the Bureau's regulatory definitions of small creditor and rural and underserved areas promulgated in those rules and related amendments through study and possibly through additional rulemaking. For example, in promulgating a temporary two-year transition period in which certain small creditors are permitted to make balloon-payment qualified mortgages in its May 2013 ATR Final Rule, the Bureau stated that it would study, during that transition period, whether the rural and underserved definitions should be adjusted.[2] Similarly, the Bureau solicited comments on the small creditor definition in a proposal amending other regulatory provisions.[3]

The Bureau is now proposing several additional amendments to the 2013 Title XIV Final Rules to revise Regulation Z regulatory provisions and official interpretations relating to escrow requirements for higher-priced mortgage loans under the Bureau's January 2013 Escrows Final Rule and ability-to-repay/qualified mortgage requirements under the Bureau's January 2013 ATR Final Rule and May 2013 ATR Final Rule.[4] The Bureau's proposal would also affect requirements under the Bureau's 2013 HOEPA Final Rule.[5] The Bureau's proposal reflects feedback from stakeholders regarding the Bureau's definitions of small creditor and rural and underserved areas, as those definitions relate to special provisions and certain exemptions to requirements provided to small creditors under the Bureau's aforementioned rules.

Specifically, the Bureau proposes the following with regard to the definitions of small creditor and rural and underserved areas (as currently provided in §§ 1026.35(b)(2)(iii)(A), (B), (C), and (D), and 1026.35(b)(2)(iv)(A) and (B) and commentary, and cross-referenced in §§ 1026.43(e)(5) and (e)(6), 1026.43(f)(1) and (f)(2) and commentary, and § 1026.32(d)(1)(ii)(C)):

- Raising the loan origination limit for determining eligibility for small-creditor status (based on the preceding calendar year's originations of the creditor and its affiliates) from 500 originations of covered transactions secured by a first lien, to 2,000 such originations, and excluding originated loans held in portfolio by the creditor

[1] Specifically, on January 10, 2013, the Bureau issued Escrow Requirements Under the Truth in Lending Act (Regulation Z), 78 FR 4725 (Jan. 22, 2013) (January 2013 Escrows Final Rule), High-Cost Mortgage and Homeownership Counseling Amendments to the Truth in Lending Act (Regulation Z) and Homeownership Counseling Amendments to the Real Estate Settlement Procedures Act (Regulation X), 78 FR 6855 (Jan. 31, 2013) (2013 HOEPA Final Rule), and Ability-to-Repay and Qualified Mortgage Standards Under the Truth in Lending Act (Regulation Z), 78 FR 6407 (Jan. 30, 2013) (January 2013 ATR Final Rule). The Bureau concurrently issued a proposal to amend the January 2013 ATR Final Rule, which was finalized on May 29, 2013. *See* 78 FR 6621 (Jan. 30, 2013) (January 2013 ATR Proposal) and 78 FR 35429 (June 12, 2013) (May 2013 ATR Final Rule). On January 17, 2013, the Bureau issued the Real Estate Settlement Procedures Act (Regulation X) and Truth in Lending Act (Regulation Z) Mortgage Servicing Final Rules, 78 FR 10901 (Feb. 14, 2013) (Regulation Z) and 78 FR 10695 (Feb. 14, 2013) (Regulation X). On January 18, 2013, the Bureau issued the Disclosure and Delivery Requirements for Copies of Appraisals and Other Written Valuations Under the Equal Credit Opportunity Act (Regulation B), 78 FR 7215 (Jan. 31, 2013) and, jointly with other agencies, issued Appraisals for Higher-Priced Mortgage Loans, 78 FR 10367 (Feb. 13, 2013) (January 2013 Interagency Appraisals Final Rule). On January 20, 2013, the Bureau issued the Loan Originator Compensation Requirements under the Truth in Lending Act (Regulation Z), 78 FR 11279 (Feb. 15, 2013).

[2] May 2013 ATR Final Rule; *see also* Amendments to the 2013 Mortgage Rules Under the Equal Credit Opportunity Act (Regulation B), Real Estate Settlement Procedures Act (Regulation X), and the Truth in Lending Act (Regulation Z), 78 FR 60382 (Oct. 1, 2013) (September 2013 Final Rule) (extending application of the temporary two-year transition period to high-cost mortgages).

[3] Amendments to the 2013 Mortgage Rules Under the Truth in Lending Act (Regulation Z), 79 FR 25730 (May 6, 2014).

[4] *See also* 2013 September Final Rule.

[5] The January 2013 Interagency Appraisals Final Rule provides an exemption from the requirement to obtain a second appraisal for certain higher-priced mortgage loans if the loan is secured by a property in a ''rural county.'' This proposed rule would not affect the scope of that exemption because it would not change the counties that are defined as ''rural'' under § 1026.35(b)(2)(iv)(A).

and its affiliates from that limit. The Bureau also proposes to provide a grace period from calendar year to calendar year to allow a creditor that exceeded the origination limit in the preceding calendar year to operate, in certain circumstances, as a small creditor with respect to applications received prior to April 1 of the current calendar year.

• Including in the calculation of the asset limit for small-creditor status (*i.e.*, less than $2 billion (adjusted annually) in assets as of the end of the preceding calendar year) the assets of the creditor's affiliates that originate mortgage loans. The Bureau also proposes to add a grace period to the annual asset limit, similar to the grace period added to the origination limit, to allow a creditor that exceeded that threshold in the preceding calendar year to operate, in certain circumstances, as a small creditor with respect to applications received before April 1 of the current calendar year.

• Adjusting the time period used in determining whether a creditor is operating predominantly in rural or underserved areas (*i.e.*, whether the creditor extended more than 50 percent of its total first-lien covered transactions secured by properties located in rural or underserved areas) from any of the three preceding calendar years to the preceding calendar year. As with the origination and asset limits for small-creditor status, the Bureau proposes to add a grace period to allow a creditor that fails to meet this threshold in the preceding calendar year, to continue operating, in certain circumstances, as if it had met this threshold with respect to applications received before April 1 of the current calendar year.

• Amending the current exemption under § 1026.35(b)(2)(iii)(D)(*1*) provided to small creditors that operate predominantly in rural or underserved areas from the requirement for the establishment of escrow accounts for higher-priced mortgage loans, to prevent creditors that are currently ineligible for the exemption, but that might qualify if the proposed rule is finalized, from losing eligibility for the exemption because they established escrow accounts due to requirements under the current rule prior to the proposed changes in this rulemaking taking effect.

• Expanding the definition of rural to include either: (1) A county that meets the current definition of rural county, or (2) a census block that is not in an urban area as defined by the U.S. Census Bureau (Census Bureau).

• Conforming, through technical changes, the definition of ''underserved'' to the proposals discussed above. The substance of the ''underserved'' definition would remain the same.

• Adding two new safe harbor provisions related to the rural or underserved definition for certain automated tools that: (1) May be provided on the Bureau's Web site to allow creditors to determine whether properties are located in rural or underserved areas, or (2) may be provided on the Census Bureau's Web site to assess whether a particular property is located in an urban area according to the Census Bureau's definition. The Bureau also proposes to maintain the current safe harbor for lists of rural and underserved counties provided by the Bureau, with technical changes. The Bureau also proposes to add commentary clarifying the circumstances under which U.S. territories will be included on the lists.

• Extending the temporary two-year transition period that allows certain small creditors to make balloon-payment qualified mortgages (§ 1026.43(e)(6)) and balloon-payment high-cost mortgages (§ 1026.32(d)(1)(ii)(C)), regardless of whether they operate predominantly in rural or underserved areas to certain covered transactions for which the application was received before April 1, 2016.

II. Background

In response to an unprecedented cycle of expansion and contraction in the mortgage market that sparked the most severe U.S. recession since the Great Depression, Congress passed the Dodd-Frank Act, which was signed into law on July 21, 2010. In the Dodd-Frank Act, Congress established the Bureau and generally consolidated the rulemaking authority for Federal consumer financial laws, including the Truth in Lending Act (TILA) and the Real Estate Settlement Procedures Act, in the Bureau.[6] At the same time, Congress significantly amended the statutory requirements governing mortgage practices, with the intent to restrict the practices that contributed to and exacerbated the crisis.[7]

Under the statute, most of these new requirements would have taken effect automatically on January 21, 2013 if the Bureau had not issued implementing regulations by that date.[8] To avoid uncertainty and potential disruption in the national mortgage market at a time of economic vulnerability, the Bureau issued several final rules (the 2013 Title XIV Final Rules) in a span of less than two weeks in January 2013 to implement these new statutory provisions and provide for an orderly transition. These final rules include the January 2013 ATR Final Rule, the January 2013 Escrows Final Rule, the 2013 HOEPA Final Rule, and the January 2013 Interagency Appraisals Final Rule. Most of the mortgage rules released in January 2013 became effective on January 10, 2014.

Concurrent with the January 2013 ATR Final Rule, on January 10, 2013, the Bureau issued the January 2013 ATR Proposal, which the Bureau adopted on May 29, 2013 in the May 2013 ATR Final Rule.[9] The Bureau has issued additional corrections, revisions, and clarifications to the provisions adopted by the Bureau in the 2013 Title XIV Final Rules and the May 2013 ATR Final Rule over the past two years.[10] This proposal concerns additional

[6] *See, e.g.*, sections 1011 and 1021 of the Dodd-Frank Act, 12 U.S.C. 5491 and 5511 (establishing and setting forth the purpose, objectives, and functions of the Bureau); section 1061 of the Dodd-Frank Act, 12 U.S.C. 5581 (consolidating certain rulemaking authority for Federal consumer financial laws in the Bureau); section 1100A of the Dodd-Frank Act (codified in scattered sections of 15 U.S.C.) (similarly consolidating certain rulemaking authority in the Bureau). *But see* Section 1029 of the Dodd-Frank Act, 12 U.S.C. 5519 (subject to certain exceptions, excluding from the Bureau's authority any rulemaking authority over a motor vehicle dealer that is predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both).

[7] *See* title XIV of the Dodd-Frank Act, Public Law 111–203, 124 Stat. 1376 (2010) (codified in scattered sections of 12 U.S.C., 15 U.S.C., and 42 U.S.C.).

[8] *See* section 1400(c) of the Dodd-Frank Act, 15 U.S.C. 1601 note.

[9] 78 FR 6621 (Jan. 30, 2013); 78 FR 35429 (June 12, 2013) (providing a two-year transition period during which small creditors that do not operate predominantly in rural or underserved areas can offer balloon-payment qualified mortgages if they hold the loans in portfolio). In May 2013, the Bureau also finalized amendments to the January 2013 Escrows Final Rule. Amendments to the 2013 Escrows Final Rule under the Truth in Lending Act (Regulation Z), 78 FR 30739 (May 23, 2013) (May 2013 Escrows Final Rule).

[10] *See, e.g.,* 78 FR 44685 (July 24, 2013) (clarifying, among other things, which mortgages to consider in determining small servicer status and the application of the small servicer exemption with regard to servicer/affiliate and master servicer/subservicer relationships); 78 FR 45842 (July 30, 2013); 78 FR 60382 (Oct. 1, 2013) (revising, among other things, two exceptions available to small creditors operating predominantly in ''rural'' or ''underserved'' areas, pending the Bureau's reexamination of the underlying definitions); 78 FR 62993 (Oct. 23, 2013) (clarifying the specific disclosures that must be provided before counseling for high cost mortgages can occur and proper compliance regarding servicing requirements when a consumer is in bankruptcy or sends a cease communication request under the Fair Debt Collection Practice Act). In the fall of 2014, the Bureau also made further amendments to the 2013 mortgage rules related to nonprofit entities and provided a cure mechanism for the points and fees limit that applies to qualified mortgages. 79 FR 65300 (Nov. 3, 2014).

revisions to the 2013 Title XIV Final Rules related to provisions regarding small creditors and rural and underserved areas.

III. Legal Authority

The Bureau is issuing this proposed rule pursuant to its authority under TILA and the Dodd-Frank Act. Section 1061 of the Dodd-Frank Act transferred to the Bureau the ''consumer financial protection functions'' previously vested in certain other Federal agencies, including the Board of Governors of the Federal Reserve System (Board). The term ''consumer financial protection function'' is defined to include ''all authority to prescribe rules or issue orders or guidelines pursuant to any Federal consumer financial law, including performing appropriate functions to promulgate and review such rules, orders, and guidelines.'' [11] Title X of the Dodd-Frank Act, including section 1061 of the Dodd-Frank Act, along with TILA and certain subtitles and provisions of title XIV of the Dodd-Frank Act, are Federal consumer financial laws.[12]

A. TILA-Specific Statutory Grants of Authority

As discussed in more detail in the section-by-section analysis below, TILA as amended by the Dodd-Frank Act provides two specific statutory bases for the proposals in the Bureau's proposed rule. TILA section 129D(c) authorizes the Bureau to exempt, by regulation, a creditor from the requirement (in section 129D(a)) that escrow accounts be established for higher-priced mortgage loans if the creditor operates predominantly in rural or underserved areas, retains its mortgage loans in portfolio, does not exceed (together with all affiliates) a total annual mortgage loan origination limit set by the Bureau, and meets any asset size threshold, and any other criteria, the Bureau may establish. TILA section 129C(b)(2)(E) authorizes the Bureau to provide, by regulation, that certain balloon-payment mortgages originated by small creditors receive qualified mortgage status, even though qualified mortgages are otherwise prohibited from having balloon-payment features. The creditor qualifications under TILA section 129C(b)(2)(E)(iv) are essentially the same as those for the higher-priced mortgage loan escrow exemption, including operating predominantly in rural or underserved areas, together with all affiliates not exceeding a total annual mortgage loan origination limit set by the Bureau, retaining the balloon-payment loans in portfolio, and meeting any asset size threshold, and any other criteria, the Bureau may establish.

B. Other Rulemaking and Exception Authority

This proposed rule also relies on other rulemaking and exception authorities specifically granted to the Bureau by TILA and the Dodd-Frank Act, including the authorities discussed below.

Truth in Lending Act

As amended by the Dodd-Frank Act, section 105(a) of TILA authorizes the Bureau to prescribe regulations to carry out the purposes of TILA. 15 U.S.C. 1604(a). Under section 105(a), such regulations may contain such additional requirements, classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for all or any class of transactions, as in the judgment of the Bureau are necessary or proper to effectuate the purposes of TILA, to prevent circumvention or evasion thereof, or to facilitate compliance therewith. A purpose of TILA is ''to assure a meaningful disclosure of credit terms so that the consumer will be able to compare more readily the various credit terms available to him and avoid the uninformed use of credit.'' TILA section 102(a), 15 U.S.C. 1601(a). In particular, it is a purpose of TILA section 129C, as added by the Dodd-Frank Act, to assure that consumers are offered and receive residential mortgage loans on terms that reasonably reflect their ability to repay the loans and that are understandable and not unfair, deceptive, or abusive. 15 U.S.C. 1639b(a)(2).

Historically, TILA section 105(a) has served as a broad source of authority for rules that promote the informed use of credit through required disclosures and substantive regulation of certain practices. Dodd-Frank Act section 1100A clarified the Bureau's section 105(a) authority by amending that section to provide express authority to prescribe regulations that contain ''additional requirements'' that the Bureau finds are necessary or proper to effectuate the purposes of TILA, to prevent circumvention or evasion thereof, or to facilitate compliance therewith. This amendment clarified the Bureau's authority to exercise TILA section 105(a) to prescribe requirements beyond those specifically listed in the statute that meet the standards outlined in section 105(a), which include effectuating all of TILA's purposes. Therefore, the Bureau believes that its authority under TILA section 105(a) to make exceptions, adjustments, and additional provisions that the Bureau finds are necessary or proper to effectuate the purposes of TILA applies with respect to the purpose of section 129D. That purpose is to ensure that consumers understand and appreciate the full cost of homeownership. The purpose of TILA section 129D is also informed by the findings articulated in section 129B(a) that economic stabilization would be enhanced by the protection, limitation, and regulation of the terms of residential mortgage credit and the practices related to such credit, while ensuring that responsible and affordable mortgage credit remains available to consumers. *See* 15 U.S.C. 1639b(a).

TILA section 129C(b)(3)(B)(i) provides the Bureau with authority to prescribe regulations that revise, add to, or subtract from the criteria that define a qualified mortgage upon a finding that such regulations: Are necessary or proper to ensure that responsible, affordable mortgage credit remains available to consumers in a manner consistent with the purposes of the ability-to-repay requirements; are necessary and appropriate to effectuate the purposes of the ability-to-repay and residential mortgage loan origination requirements; prevent circumvention or evasion thereof; or facilitate compliance with TILA sections 129B and 129C. 15 U.S.C. 1639c(b)(3)(B)(i). In addition, TILA section 129C(b)(3)(A) requires the Bureau to prescribe regulations to carry out such purposes. 15 U.S.C. 1639c(b)(3)(A).

TILA section 105(a) grants the Bureau authority to make adjustments and exceptions to the requirements of TILA for all transactions subject to TILA, except with respect to the substantive provisions of TILA section 129 that apply to high-cost mortgages. With respect to the high-cost mortgage provisions of TILA section 129, TILA section 129(p), 15 U.S.C. 1639(p), as amended by the Dodd-Frank Act, grants the Bureau authority to create exemptions to the restrictions on high-cost mortgages and to expand the protections that apply to high-cost mortgages. Under TILA section 129(p)(1), the Bureau may exempt

[11] Dodd-Frank Act section 1061(a)(1)(A), 12 U.S.C. 5581(a)(1)(A).

[12] Dodd-Frank Act section 1002(14), 12 U.S.C. 5481(14) (defining ''Federal consumer financial law'' to include the ''enumerated consumer laws,'' the provisions of title X of the Dodd-Frank Act, and the laws for which authorities are transferred under title X subtitles F and H of the Dodd-Frank Act); Dodd-Frank Act section 1002(12), 12 U.S.C. 5481(12) (defining ''enumerated consumer laws'' to include TILA); Dodd-Frank section 1400(b), 12 U.S.C. 5481(12) note (defining ''enumerated consumer laws'' to include certain subtitles and provisions of Dodd-Frank Act title XIV).

specific mortgage products or categories from any or all of the prohibitions specified in TILA section 129(c) through (i), if the Bureau finds that the exemption is in the interest of the borrowing public and will apply only to products that maintain and strengthen homeownership and equity protections. Among these referenced provisions of TILA is section 129(e), the prohibition on balloon payments for high-cost mortgages.

C. The Dodd-Frank Act

Section 1022(b)(1) of the Dodd-Frank Act authorizes the Bureau to prescribe rules ''as may be necessary or appropriate to enable the Bureau to administer and carry out the purposes and objectives of the Federal consumer financial laws, and to prevent evasions thereof.'' 12 U.S.C. 5512(b)(1). TILA and title X and certain enumerated subtitles and provisions of title XIV of the Dodd-Frank Act are Federal consumer financial laws. Accordingly, the Bureau is exercising its authority under Dodd-Frank Act section 1022(b) to propose rules that carry out the purposes and objectives of TILA, title X of the Dodd-Frank Act, and certain enumerated subtitles and provisions of title XIV of the Dodd-Frank Act, and to prevent evasion of those laws.

IV. Proposed Effective Date

The Bureau proposes that all of the changes proposed in this notice take effect on January 1, 2016. Specifically, the Bureau's proposed amendments to § 1026.35(b)(2)(iii)(A), (B), (C), and (D) and its commentary, to § 1026.35(b)(2)(iv)(A), (B), and (C) and its commentary, to § 1026.43(e)(6), and to the commentary to §§ 1026.43(e)(5) and 1026.43(f)(1) and (f)(2), take effect for covered transactions consummated on or after January 1, 2016. The Bureau believes this proposed effective date provides a date that is consistent with the end of the calendar year determinations required to be made with regard to the applicability of the special provisions and exemptions that apply to small creditors under the Bureau's regulations, as would be amended by the Bureau's proposal, and would therefore facilitate compliance by creditors. The Bureau seeks comment on whether the proposed effective date is appropriate, or whether the Bureau should adopt an alternative effective date.

V. Section-by-Section Analysis of the Proposed Rule

Section 1026.35 Requirements for Higher-Priced Mortgage Loans

35(b) Escrow Accounts

35(b)(2) Exemptions

35(b)(2)(iii)

Except as provided in § 1026.35(b)(2)(v), § 1026.35(b)(2)(iii) provides that an escrow account need not be established for a transaction if four conditions identified in § 1026.35(b)(2)(iii)(A) through (D) are satisfied at the time of consummation. The Bureau proposes to make amendments to all of these conditions, as discussed below. As discussed in more detail above, the Bureau's authority to make these revisions rests in TILA as amended by the Dodd-Frank Act, and the Bureau believes the revisions carry out the Dodd-Frank Act's intent to treat certain small creditors differently than larger creditors. These proposed changes affect the eligibility of creditors for exemption from the higher-priced mortgage loan escrow requirements in the Bureau's January 2013 Escrows Final Rule. Because the requirements of § 1026.35(b)(2)(iii) are cross-referenced in the Bureau's January 2013 ATR Final Rule and its 2013 HOEPA Final Rule, the proposed changes also affect eligibility for certain special provisions and exemptions provided in those rules. These special provisions and exemptions, in effect, facilitate the ability of certain small creditors that operate in rural and underserved areas, as well as certain small creditors that operate in areas that are neither rural nor underserved, to originate mortgage loans. As discussed in the section-by-section analysis of § 1026.35(b)(2)(iii)(B) below, the special provisions and exemptions consequently help provide better access to credit for consumers served by those small creditors.

35(b)(2)(iii)(A)

Background—''Rural'' or ''Underserved'' Designation

The Dodd-Frank Act amendments to TILA set forth two special provisions for small creditors operating predominantly in ''rural'' or ''underserved'' areas, without defining those terms. TILA section 129D, as added and amended by Dodd-Frank Act sections 1461 and 1462 and implemented by § 1026.35(b), generally requires that creditors establish escrow accounts for higher-priced mortgage loans secured by a first lien on a consumer's principal dwelling, but the statute also authorizes the Bureau to exempt from this requirement a creditor that, among other criteria, ''operates predominantly in rural or underserved areas.'' TILA section 129D(c)(1), 15 U.S.C. 1639d(c)(1). Similarly, the ability-to-repay provisions in Dodd-Frank Act section 1412 allow balloon-payment mortgages to be considered qualified mortgages if, among other criteria, the balloon-payment mortgages are originated and held in portfolio by certain creditors that operate predominantly in rural or underserved areas. TILA section 129C(b)(2)(E), 15 U.S.C. 1639c(b)(2)(E).

In the January 2013 Escrows Final Rule and the January 2013 ATR Final Rule, the Bureau implemented the section 1461 higher-priced mortgage loan escrows requirement and the section 1412 balloon-payment qualified mortgage provision through §§ 1026.35(b)(2)(iii) and 1026.43(f), respectively. In addition, as part of the 2013 HOEPA Final Rule, the Bureau adopted in § 1026.32(d)(1)(ii)(C) an exemption to the general prohibition of balloon payments for high-cost mortgages when those mortgages meet the criteria for balloon-payment qualified mortgages set forth in § 1026.43(f). The Bureau, the Board, the Federal Deposit Insurance Corporation, the Federal Housing Finance Agency, the National Credit Union Administration, and the Office of the Comptroller of the Currency also adopted an exemption from a requirement to obtain a second appraisal for certain higher-priced mortgage loans under the January 2013 Interagency Appraisals Final Rule for any credit transaction that finances a consumer's acquisition of property ''[l]ocated in a rural county, as defined in 12 CFR 1026.35(b)(2)(iv)(A).'' *See, e.g.,* § 1026.35(c)(4)(vii)(H).

Through the January 2013 Escrows Final Rule, the Bureau adopted § 1026.35(b)(2)(iv)(A) and (B) to define which counties are ''rural'' and ''underserved'' respectively for the purposes of the Bureau's rules discussed above. The January 2013 Escrows Final Rule also provided comment 35(b)(2)(iv)–1 to clarify the criteria for ''rural'' and ''underserved'' counties and provided that the Bureau will annually update on its public Web site a list of counties that meet the definitions of rural and underserved in § 1026.35(b)(2)(iv). 78 FR 4725, 4741 (Jan. 22, 2013). In advance of the rule's effective date, the Bureau amended § 1026.35(b)(2)(iv) and comment 35(b)(2)(iv)–1 to clarify further how to determine whether a county is rural or

underserved for the purposes of these provisions.[13]

Since publication of the 2013 Title XIV Final Rules, the Bureau has received extensive feedback on the definitions of ''rural'' and ''underserved'' that it adopted for purposes of the 2013 Title XIV Final Rule provisions described above. Many commenters criticized the Bureau for defining ''rural'' and ''underserved'' too narrowly and urged the Bureau to consider alternative definitions. Commenters were particularly critical of the Bureau's definition of ''rural,'' which they asserted excluded many communities that are considered rural under other legal or regulatory definitions or that are commonly viewed as rural because of their small size or isolated or agricultural characteristics.

In light of the feedback received, the Bureau added § 1026.43(e)(6) in the May 2013 ATR Final Rule to allow small creditors during the period from January 10, 2014, to January 10, 2016, to make balloon-payment qualified mortgages even if they do not operate predominantly in rural or underserved areas.[14] Section 1026.43(e)(6) applies only to loans consummated on or before January 10, 2016, two years after the effective date of the January 2013 ATR Final Rule. The Bureau announced that it would reexamine the ''rural'' and ''underserved'' definitions during this period to determine whether further adjustments were appropriate. The Bureau also indicated that it would explore how it can best facilitate the transition of small creditors that do not operate predominantly in rural or underserved areas from balloon-payment loans to adjustable-rate mortgages as Congress intended under the Dodd-Frank Act. 78 FR 35430, 35489 (June 12, 2013).

The Bureau subsequently proposed revisions to § 1026.32(d)(1)(ii)(C) to allow small creditors to carry over the flexibility provided by the May 2013 ATR Final Rule into the HOEPA balloon-loan provisions.[15] In the September 2013 Final Rule, the Bureau extended the exception to the general prohibition on balloon features for high-cost mortgages under § 1026.32(d)(1)(ii)(C) to allow small creditors, regardless of whether they operate predominantly in ''rural'' or ''underserved'' areas, to continue originating balloon high-cost mortgages if the loans meet the requirements for qualified mortgages under §§ 1026.43(e)(6) or 1026.43(f). 78 FR 60382, 60414 (Oct. 1, 2013).

During the definitional review period leading up to January 10, 2016, the Bureau also sought to minimize volatility in the exemption provided by § 1026.35(b)(2)(iii) to the general requirement that creditors establish an escrow account for first-lien higher-priced mortgage loans. The first year-to-year transition under the ''rural'' definition for purposes of this exemption coincided with the decennial redesignation of Urban Influence Codes (UIC) assigned to counties by the United States Department of Agriculture's Economic Research Service (USDA–ERS) following the 2010 census, which determine which counties are considered ''rural'' in a particular year under the Bureau's current definition. As a result, there was a potential that a significant number of otherwise eligible creditors during 2013 would lose their eligibility for the escrow exemption for 2014 if an adjustment was not made to stabilize the exemption during the definitional review period.[16]

To reduce volatility in the escrow exemption as the definitions are being reevaluated, the Bureau revised § 1026.35(b)(2)(iii) and its commentary to allow creditors to meet the condition in § 1026.35(b)(2)(iii)(A) for a particular calendar year based on loans made in ''rural'' or ''underserved'' counties in any of the three preceding calendar years. In instituting this three-year lookback period, the Bureau noted that the revisions to § 1026.35(b)(2)(iii)(A) would loosely approximate the two-year extension of the balloon special provision for qualified mortgages under § 1026.43(e)(6) and the two-year extension of the HOEPA balloon exemption under revised § 1026.32(d)(1)(ii)(C). 78 FR 60382, 60415–16 (Oct. 1, 2013). To satisfy the first of the four conditions in § 1026.35(b)(2)(iii) for exemption from the escrow requirement, § 1026.35(b)(2)(iii)(A) thus currently requires that during any of the three preceding calendar years, the creditor extended more than 50 percent of its total first-lien covered transactions, as defined by § 1026.43(b)(1),[17] on properties that are located in counties that are either ''rural'' or ''underserved,'' as set forth in paragraph (b)(2)(iv) of the section (the ''more than 50 percent'' test).

Bureau Proposal

In advance of the sunset date for § 1026.43(e)(6), the Bureau proposes to amend § 1026.35(b)(2)(iii)(A) and comment 35(b)(2)(iii)–1 to adjust the time period used in assessing whether the rural or underserved test is met. The Bureau proposes to eliminate the three-year lookback period in § 1026.35(b)(2)(iii)(A) and to establish the preceding calendar year as the relevant time period for assessing whether the ''more than 50 percent'' test is satisfied as a general matter. The Bureau's proposal also creates a grace period to allow otherwise eligible creditors whose first-lien covered transactions in the preceding year failed to meet the ''more than 50 percent'' test to continue to operate with the benefit of the exemption with respect to applications received before April 1 of the current calendar year if their first-lien covered transactions during the next-to-last calendar year met the test.

Proposed § 1026.35(b)(2)(iii)(A) also substitutes the word ''areas'' for ''counties'' to conform to proposed changes to the ''rural'' definition in § 1026.35(b)(2)(iv)(A) that are discussed below.

As explained above, the Bureau adopted the three-year lookback period in § 1026.35(b)(2)(iii)(A) to minimize any negative impact on creditors from volatility in the ''rural'' and ''underserved'' definitions during the period in which the Bureau is reconsidering the definitions. As originally adopted in the January 2013 Escrows Final Rule, § 1026.35(b)(2)(iii)(A) considered only the preceding year. The Bureau instituted the three-year lookback period to stabilize the escrow exemption during the period from 2013 to 2015 while the definitions were under

[13] May 2013 Escrows Final Rule.

[14] Section 1026.43(e)(6) requires that all of the same criteria be satisfied as the balloon-payment qualified mortgage definition in § 1026.43(f) except the requirement that the creditor extend more than 50 percent of its total first-lien covered transactions in counties that are ''rural'' or ''underserved.'' 78 FR 35430, 35489–90 (June 12, 2013).

[15] Amendments to the 2013 Mortgage Rules Under the Equal Credit Opportunity Act (Regulation B), Real Estate Settlement Procedures Act (Regulation X), and the Truth in Lending Act (Regulation Z), 78 FR 39902, 39903 (July 2, 2013).

[16] Because of updated information from the 2010 Census, numerous counties' status under the Bureau's definition changed between 2013 and 2014, with a small number of new counties meeting the definition of ''rural'' and approximately 82 counties no longer meeting that definition. In proposing revisions to § 1026.35(b) and its commentary, the Bureau estimated that approximately 200–300 otherwise eligible creditors during 2013 might lose their eligibility for 2014 solely because of changes in the status of the counties in which they operate (assuming the geographical distribution of their mortgage originations did not change significantly over the relevant period). Setpember 2013 Final Rule, 78 FR 60382 at 60415–16.

[17] ''Covered transaction'' is defined in § 1026.43(b)(1) to mean a consumer credit transaction that is secured by a dwelling, as defined in § 1026.2(a)(19), including any real property attached to a dwelling, other than a transaction exempt from coverage under § 1026.43(a).

review. 78 FR 60382, 60416 (Oct. 1, 2013). This change guaranteed eligibility (for a creditor that was eligible during 2013 with respect to operating predominantly in rural or underserved areas, and met the other applicable criteria) through 2015. Stability in this specific period was a particular concern because during the definitional review the first year-to-year transition in the ''rural'' definition for purposes of this exemption was to coincide with the shift in USDA–ERS county UIC designations that occur once every decade.

Once the definitional review period ends, the Bureau does not believe that it would advance the overall purposes of the special provisions and exemptions to allow creditors to continue utilizing them for up to three years after their activity stops meeting the applicable test. Using a three-year lookback period on a permanent basis would allow creditors to maintain eligibility even if their first-lien covered transactions do not meet the ''more than 50 percent'' test in most calendar years, which seems contrary to the goal of identifying creditors that focus their activity in rural or underserved areas.

Although the three-year lookback period allows creditors to anticipate whether they will be eligible for the exemption at least two years into the future, the Bureau does not believe that such extended notice will be necessary once the proposed revisions to the definitions are finalized. As explained in the section-by-section analysis of proposed § 1026.35(b)(2)(iv)(A) below, the areas that are rural under the proposed definition would only change once or twice a decade.[18] While the counties defined as underserved could change each year, such shifts are unlikely to affect many creditors' eligibility for the special provisions and exemptions because there are very few counties that would be underserved but not rural under the Bureau's proposed definitions. The Bureau therefore believes that creditors that meet the ''more than 50 percent'' test in a typical calendar year are unlikely to fail to meet the test in the next calendar year unless their geographic service area and offerings change substantially.

Furthermore, creditors can monitor the first-lien covered transactions that they originate throughout the year and should generally be able to anticipate any change in their eligibility well before the end of the year. Any changes that would be made in the rural definition after each decennial census is completed would be based on demographic shifts that have unfolded over the preceding decade (which may, in many instances, be evident to creditors serving those areas) and would be announced well before they become effective, allowing time for creditors to assess their status and make appropriate transitions. Once the definitional review is completed, the Bureau therefore believes that the preceding calendar year will be the appropriate time period to utilize as a general rule in assessing whether the ''more than 50 percent'' test is met.

Notwithstanding these considerations, a creditor could find out on or close to December 31st that it was not operating predominantly in rural or underserved areas during that calendar year. Such a creditor might have difficulty transitioning from balloon-payment loans to adjustable-rate mortgages and complying with the higher-priced mortgage loan escrow requirements by January 1 if eligibility for the special provisions and exemptions is based solely on transactions in the preceding calendar year. The Bureau therefore proposes a grace period that allows a creditor making a higher-priced mortgage loan based on an application received before April 1 to rely on its transactions from either the preceding calendar year or the next-to-last calendar year to meet the condition in § 1026.35(b)(2)(iii)(A).

Under the proposal, a creditor that is otherwise eligible and that met the ''more than 50 percent'' test in calendar year one but fails to meet it in calendar year two remains eligible with respect to applications received before April 1 of calendar year three. The Bureau believes that a short grace period of this nature would facilitate the transition of creditors that no longer operate predominantly in rural or underserved areas and would properly balance the importance of the substantive consumer protections provided by the higher-priced mortgage loan escrows requirement, the ability-to-repay requirement, and HOEPA (for high-cost mortgages) with concerns that have been raised regarding their potential impact on access to credit.

The Bureau also proposes conforming and technical changes to the rule and commentary. Because the Bureau proposes to revise the ''rural'' definition in § 1026.35(b)(2)(iv)(A) to encompass certain areas that are not counties, the Bureau also proposes to substitute the word ''areas'' for ''counties'' in § 1026.35(b)(2)(iii)(A) where it appears.

Proposed comment 35(b)(2)(iii)–1.i incorporates changes that align with the changes that the Bureau proposes to the regulation text in §§ 1026.35(b)(2)(iii)(A) and 1026.35(b)(2)(iv)(A). The Bureau also proposes to remove from comment 35(b)(2)(iii)–1.i all discussion of the lists that the Bureau publishes of ''rural'' or ''underserved'' counties pursuant to § 1026.35(b)(2)(iv), in order to centralize updated commentary regarding such lists in proposed comment 35(b)(2)(iv)–1.iii.

The Bureau proposes a new comment 35(b)(2)(iii)–1.i.A that explains the relevant time period to use in assessing whether the ''more than 50 percent'' test in proposed § 1026.35(b)(2)(iii)(A) is met. As the proposed comment explains, whether this condition is satisfied generally depends on the creditor's activity during the preceding calendar year. However, if the application for the loan in question was received before April 1, the creditor may instead meet this condition based on its activity during the next-to-last calendar year.

Proposed comment 35(b)(2)(iii)–1.i.B explains further how the test works. It states that a creditor meets the ''more than 50 percent'' test for any higher-priced mortgage loan consummated during the calendar year if a majority of its first-lien covered transactions in the preceding calendar year are secured by properties located in rural or underserved areas. The proposed comment further explains that, if the creditor's transactions in the preceding calendar year do not meet the ''more than 50 percent'' test, the creditor meets this condition for a higher-priced mortgage loan that is consummated during the current calendar year only if the application for the loan was received before April 1 and a majority of the creditor's first-lien covered transactions during the next-to-last calendar year are secured by properties located in rural or underserved areas. Proposed comment 35(b)(2)(iii)–1.i.B also provides illustrative examples to replace the example that currently appears in comment 35(b)(2)(iii)–1.i.

The Bureau invites comment on whether it should eliminate the three-year lookback period as proposed and whether it is appropriate to rely on the preceding calendar year in determining as a general matter whether the ''more than 50 percent'' test is met. The Bureau

[18] As noted in the discussion of comment 35(b)(2)(iv)–2 below, the Census Bureau released its list of urban areas based on the 2010 decennial census in 2012, and the USDA–ERS released its UIC designations based on the 2010 decennial census in 2013. If the USDA–ERS continues to incorporate decennial census results into its UIC county designations in a different year than the Census Bureau finalizes its rural-urban classification, as in 2012 and 2013, the effects of each decennial census would be incorporated into the Bureau's proposed ''rural'' definition over the course of two years, which would afford additional transition time to some of the creditors affected by the changes.

also seeks feedback on whether it should provide a grace period to creditors that meet this test in one calendar year but fail to do so in the next calendar year and, if so, whether such a grace period should apply to all applications received before April 1 as proposed.

35(b)(2)(iii)(B)

The Bureau proposes to revise the loan origination limit in § 1026.35(b)(2)(iii)(B). Section 1026.35(b)(2)(iii)(B) limits eligibility for the special provisions and exemptions to creditors that, together with their affiliates, in the preceding calendar year originated 500 or fewer covered transactions, as defined by § 1026.43(b)(1), secured by a first lien (origination limit). Section 1026.35(b)(2)(iii)(C) also requires such creditors to have less than $2 billion in assets (or other current yearly adjusted limit) at the end of the preceding calendar year (asset limit). The Bureau proposes to raise the origination limit from 500 loans to 2,000 loans, and to apply the limit only to loans not held in portfolio by the creditor or its affiliates. That is, under the proposal, the origination limit only applies to loans that were sold, assigned, or otherwise transferred by the creditor or its affiliates to another person, or subject at the time of consummation to a commitment to be acquired by another person. The Bureau's proposal also adds a ''grace period'' from calendar year to calendar year to allow an otherwise eligible creditor that exceeded the origination limit in the preceding calendar year to continue to operate as a small creditor with respect to applications received before April 1 of the current calendar year—with the benefit of the special provisions and exemptions—as if it had not exceeded the origination limit in the preceding year.

Background

The special provisions and exemptions for small creditors included in the 2013 Title XIV Final Rules and related amendments (discussed in more detail below) are principally based on TILA sections 129D(c) and 129C(b)(2)(E), as adopted by sections 1461 and 1412, respectively, of the Dodd-Frank Act. TILA section 129D(c) authorizes the Bureau to exempt a creditor from the requirement (in section 129D(a)) that escrow accounts be established for higher-priced mortgage loans if the creditor operates predominantly in rural or underserved areas, retains its mortgage loans in portfolio, does not exceed (together with its affiliates) a total annual mortgage loan origination limit set by the Bureau, and meets any asset size threshold, and any other criteria the Bureau may establish, consistent with the purposes of TILA. TILA section 129C(b)(2)(E) permits certain balloon-payment mortgages to receive qualified mortgage status if they are originated by small creditors that, among other things, operate predominantly in rural or underserved areas, even though qualified mortgages are otherwise prohibited from having balloon-payment features.

The creditor qualifications under TILA section 129C(b)(2)(E) essentially mirror the criteria for the higher-priced mortgage loan escrow exemption, including (together with all affiliates) not exceeding a total annual mortgage loan origination limit set by the Bureau, retaining the balloon-payment loans in portfolio, meeting any asset size threshold, and any other criteria, the Bureau may establish, consistent with the purposes of TILA.

Both of these statutory provisions therefore provide that in order for a creditor to qualify as a ''small creditor'' for the exemptions from and special provisions related to the respective escrow and qualified mortgage requirements the following criteria must be met: (1) Together with all affiliates, does not exceed a total annual loan origination limit to be set by the Bureau; (2) a requirement that the originated loans be retained in portfolio (for TILA section 129C(b)(2)(E) this requirement applies only to the creditor's originated balloon loans); and (3) any asset size threshold that the Bureau may establish. The statute requires the Bureau to set an annual loan origination limit—but provides the Bureau with some flexibility in establishing that limit. The statute authorizes, but does not require, the Bureau to establish an asset size threshold. The Bureau has established an asset limit to determine small-creditor status.

Board Proposal

Prior to the transfer by the Dodd-Frank Act of rulemaking authority for these statutory provisions to the Bureau, the Board issued proposals implementing TILA sections 129D(c) and 129C(b)(2)(E). With regard to 129D(c), providing the exemption from the higher-priced mortgage loan escrow requirements, the Board proposed to limit the exemption to creditors that (1) during either of the preceding two calendar years, together with affiliates, originated and retained servicing rights to 100 or fewer loans secured by a first lien on real property or a dwelling; and (2) together with affiliates, do not maintain escrow accounts for loans secured by real property or a dwelling that the creditor or its affiliates currently service.[19] In issuing this proposal, the Board stated that it sought to limit the exemption to creditors that maintain servicing portfolios too small to escrow cost effectively. The Board estimated that a minimum servicing portfolio size of 500 is necessary to escrow cost-effectively and assumed that the average life expectancy of a mortgage loan is approximately five years. The Board believed therefore that creditors would no longer need the benefit of the exemption if they originated and serviced more than 100 first-lien transactions per year. The Board proposed a two-year lookback period—providing that the test would be satisfied as long as the creditor's (and its affiliates') servicing-retained originations did not exceed 100 during either of the preceding two calendar years. The Board did not propose an asset-size threshold to qualify for the escrow exemption but sought comment on whether such a threshold should be established and, if so, what it should be.

The Board, with regard to the balloon-payment qualified mortgage definition to implement TILA section 129C(b)(2)(E), proposed two alternative annual origination limits and an asset-size limit of $2 billion.[20] The Board interpreted the qualified mortgage provision as designed to facilitate access to credit in areas where consumers may be able to obtain credit only from community banks offering balloon-payment mortgages. Under alternative 1, the creditor, together with all affiliates, extended covered transactions of some dollar amount or less during the preceding calendar year; under alternative 2, the creditor, together with all affiliates, extended some number of covered transactions or fewer during the preceding calendar year. The Board did not propose a specific annual origination limit in connection with TILA section 129C(b)(2)(E), but the Board sought comment on the issue—for example, whether the threshold should be 100 loans per year or something greater or something less, or whether the threshold should be $100 million in aggregate covered-transaction loan

[19] 76 FR 11597 (Mar. 2, 2011) (2011 Escrows Proposal). The proposed exemption also would have required that, during the preceding calendar year, the creditor extended more than 50 percent of its total first-lien higher-priced mortgage loans in counties designated as rural or underserved, among other requirements.

[20] 76 FR 27390 (May 11, 2011).

amounts per year, or something greater or something less.

Bureau Rulemaking

Prior to the Board finalizing the above-described proposals, rulemaking authority to implement these sections of TILA passed to the Bureau in July 2011. The Bureau considered the Board's proposals and public comment before finalizing those rules,[21] as part of its rulemakings implementing title XIV of the Dodd-Frank Act, in January 2013.[22] In coming to a determination on the appropriate small creditor thresholds, the Bureau stated its belief that TILA section 129D(c)(2) reflects a recognition that larger creditors have the systems capability and operational scale to establish cost-efficient escrow accounts.[23] In addition, the Bureau stated its belief that TILA section 129C(b)(2)(E)(iv)(II) reflects a recognition that larger creditors that operate in rural or underserved areas should be able to make credit available without resorting to balloon-payment mortgages.[24]

The Bureau, after further analysis to determine the appropriate thresholds, adopted an annual origination limit of 500 first-lien covered transactions in the preceding calendar year and an asset-size limit of $2 billion, adjusted annually for inflation (§ 1026.35(b)(2)(iii)(B) and (C)). Specifically, the origination limit in § 1026.35 (b)(2)(iii)(B) provides that, during the preceding calendar year, creditors, together with their affiliates, must have originated 500 or fewer covered transactions, as defined by § 1026.43(b)(1), secured by a first lien. The asset limit in § 1026.35(b)(2)(iii)(C) requires creditors to have had less than $2 billion in assets (or other current yearly adjusted threshold) at the end of the preceding calendar year.

The Bureau believed that it would be preferable to use the same annual originations and asset-size limits for the qualified mortgage and escrow provisions to reflect the consistent statutory language, to facilitate compliance by not requiring institutions to track multiple metrics, and to promote consistent application of the two exemptions.[25] The Bureau noted that both provisions are focused in a broad sense on accommodating creditors whose systems constraints might otherwise cause them to exit the market.[26]

The Bureau adopted a threshold of 500 or fewer annual originations of first-lien transactions to provide greater flexibility and reduce concerns that the threshold in the Board's 2011 Escrows Proposal would reduce access to credit by excluding creditors that need special accommodations in light of their capacity constraints.[27] The Bureau believed that an origination limit was the most accurate means of confining the special provisions to the class of small creditors with a business model the Bureau believed would best facilitate consumers' access to responsible, affordable credit, *i.e.,* creditors that focus primarily on a relationship-lending model. The Bureau also believed that an asset limit is important to preclude a very large creditor with relatively modest mortgage operations from taking advantage of a provision designed for much smaller creditors with much different characteristics and incentives that lack the scale to make compliance less burdensome.

Based on publicly available Home Mortgage Disclosure Act (HMDA) and Call Report data, the Bureau estimated that the small creditor provisions as finalized would include approximately 95 percent of creditors with less than $500 million in assets, approximately 74 percent of creditors with assets between $500 million and $1 billion, and approximately 50 percent of creditors with assets between $1 billion and $2 billion. The Bureau believed these percentages were consistent with the rationale for providing special accommodation for small creditors and would be appropriate to ensure that consumers have access to responsible, affordable mortgage credit.[28]

The Bureau also provided small creditor special provisions and exemptions, using the limits established in § 1026.35(b)(2)(iii)(B) and (C), beyond the small creditor exemption from the requirement for the establishment of escrow accounts for first-lien higher-priced mortgage loans, and the special provision permitting certain balloon-payment mortgages to receive qualified mortgage status if originated by small creditors operating predominantly in rural or underserved areas. The Bureau extended these limits to create a small creditor exemption from the balloon-payment prohibition for high-cost loans, and to create a special qualified mortgage definition for portfolio loans made by small creditors.

Specifically, the special provisions and exemptions provided under the Bureau's 2013 Title XIV Final Rules—available only to small creditors—include the following:

- A qualified mortgage definition for certain loans made and held in portfolio (small creditor portfolio loans), which are not subject to the 43 percent debt-to-income ratio limit that applies to general qualified mortgage loans under § 1026.43(e)(2)) (§ 1026.43(e)(5)). A first-lien qualified mortgage under this category also provides a safe harbor from ability-to-repay claims, if the mortgage's annual percentage rate (APR) does not exceed the applicable Average Prime Offer Rate (APOR) by 3.5 or more percentage points. In contrast, general qualified mortgage loans under § 1026.43(e)(2) provide safe harbors if their APRs do not exceed the applicable APOR by 1.5 or more percentage points.[29]

[21] The Bureau also conducted further analysis to try to determine the most appropriate thresholds, although it was significantly constrained by data limitations with regard to mortgage originations in rural areas generally and in particular with regard to originations of balloon-payment mortgages. *See* January 2013 ATR Final Rule, 78 FR 6407, 6545.

[22] January 2013 Escrows Final Rule; January 2013 ATR Final Rule; 2013 HOEPA Final Rule.

[23] 78 FR 4726, 4737 (Jan. 22, 2013).

[24] *Id.*

[25] *Id.*

[26] *Id.*

[27] The preamble to the January 2013 Escrows Final Rule noted that the increased threshold was not as limiting as it might first appear because the Bureau's analysis of HMDA data suggested that even small creditors are likely to sell a significant number of their originations in the secondary market, and, assuming that most mortgage transactions that are retained in portfolio are also serviced in-house, the Bureau estimated that a creditor originating no more than 500 first-lien transactions per year would maintain and service a portfolio of about 670 mortgage obligations over time (assuming an average obligation life expectancy of five years). Thus, the Bureau believed the higher threshold in the January 2013 Escrows Final Rule would help to ensure that creditors that are subject to the escrow requirement would in fact maintain portfolios of sufficient size to maintain the escrow accounts on a cost-efficient basis over time, in the event that the Board's 500-loan estimate of a minimum cost-effective servicing portfolio size was too low. At the same time, however, the Bureau believed that the 500 annual origination threshold in combination with the other requirements would still ensure that the balloon-payment qualified mortgage special provisions and escrow exemptions are available only to small creditors that focus primarily on a relationship lending model and face significant systems constraints. *Id.*

[28] In a later rulemaking, extending the same 500 first-lien origination threshold (as well as the $ 2 billion asset threshold) to a new category of qualified mortgages originated by small creditors (§ 1026.43(e)(5)) the Bureau stated in support of the threshold it was adopting that as the size of an institution increases it is expected that the scale of its lending business will increase as well. In addition, the Bureau noted that as the scale of a creditor's lending business increases, the likelihood that the institution is engaged in relationship-based lending and employing qualitative or local knowledge in its underwriting decreases. May 2013 ATR Final Rule, 78 FR 35429, 35486.

[29] Specifically, for purposes of determining whether a loan has a safe harbor with regard to TILA's ability-to-repay requirements (or instead is categorized as ''higher-priced'' with only a rebuttable presumption of compliance with those requirements), for first-lien covered transactions, the special qualified mortgage definitions in

Continued

• Two qualified mortgage definitions (*i.e.,* a permanent and a temporary definition) for certain loans made and held in portfolio that have balloon-payment features—an exception from the limitation on balloon-payment features on general qualified mortgage loans (§ 1026.43(e)(6) and (f)).[30] As with the category of first-lien qualified mortgages discussed above (*i.e.,* small creditor portfolio loans defined in § 1026.43(e)(5)) these qualified mortgages are also subject to a higher APR threshold for defining a higher-priced covered transaction, allowing small creditors of such qualified mortgages to receive a safe harbor under the Bureau's ability-to-repay rule.

• An exception from the prohibition on balloon-payment features for certain high-cost mortgages (§ 1026.32(d)(1)(ii)(C))—also on a permanent and temporary basis.[31]

• An exception from the requirement to establish escrow accounts for certain higher-priced mortgage loans for small creditors that operate predominantly in rural or underserved areas (§ 1026.35(b)(2)(iii)).

The Bureau's special provisions for and exemption of small creditors from certain requirements of the 2013 Title XIV Final Rules are consistent with the different treatment accorded under the Dodd-Frank Act to small creditors versus larger creditors and were a recognition by the Bureau of the important role that small creditors play in providing mortgage credit to consumers. It was the Bureau's belief that small creditors' size and relationship lending model often provide them with better ability than large institutions to assess ability to repay. The Bureau recognized that many small creditors use a lending model based on maintaining ongoing relationships with their customers—and therefore may have a more comprehensive understanding of the financial circumstances of their customers. And since the lending activities of small creditors are often limited to a single community, they may have an in-depth understanding of the economic and other circumstances of that community.[32] The Bureau's special provisions and exemptions were also a recognition that small creditors lack economies of scale necessary to offset the cost of certain regulatory requirements—unlike larger creditors.[33]

Prior to and after the effective dates of the 2013 Title XIV Final Rules, the Bureau heard repeated expressions of concern that the Bureau's definition of small creditor was under-inclusive and did not cover a significant number of institutions that met the rationale underlying the special provisions and exemptions. Accordingly, on May 6, 2014, in a Notice of Proposed Rulemaking with proposals addressing other elements of the 2013 Title XIV Final Rules, the Bureau also sought comment on the 500 total first-lien origination limit—and the requirement that the limit be determined for any given calendar year based upon results during the immediately prior calendar year.[34] Specifically, the Bureau solicited feedback and data from (1) creditors designated as small creditors under the Bureau's 2013 Title XIV Final Rules; and (2) creditors with less than $2 billion in assets but that were not small creditors under the Bureau's 2013 Title XIV Final Rules because their total annual first-lien mortgage originations exceeded the 500-loan limit. For such creditors, the Bureau requested data on the number and type of mortgage products offered and originated to be held in portfolio during the years prior to the effective date of the 2013 Title XIV Final Rules and subsequent to that date. The Bureau was particularly interested in how such creditors' origination mix changed in light of the Bureau's 2013 Title XIV Final Rules (including, but not limited to, the percentage of loans that had fixed rates, adjustable rates, or balloon-payment features), both as to loans originated for the secondary market and for portfolio.

The Bureau also solicited feedback on the implementation efforts of such small creditors with respect to the Bureau's 2013 Title XIV Final Rules. The Bureau was interested in the challenges that creditors might face when transitioning from originating balloon-payment loans to originating adjustable-rate loans. Finally, the Bureau solicited comment on whether the 500 total first-lien origination limit is sufficient to serve the purposes of the small creditor designation and, to the extent it may be insufficient, the reasons why it is insufficient and the range of appropriate limits.

Comments Received

In response to the Bureau's solicitation of comments in its May 6, 2014 proposal regarding the origination limit, industry commenters, including national and state bank trade associations, and national and state credit union associations, generally supported an increase in the 500 loan origination limit. Consumer groups generally did not support an increase, absent clear evidence that the current limit was significantly harming consumers. These commenters asserted that evidence of consumer harm does not exist.

Specifically, one major bank trade association for example suggested a $10 billion asset limit and a 2,000 per year loan origination limit. It stated that it believed that the 500 annual loan origination limit unnecessarily restricts credit to qualified borrowers. It stated that lenders, especially smaller lenders, faced with this limitation on gaining qualified mortgage status will make fewer loans than they otherwise would have, particularly for lower loan amounts, making it more difficult for rural and underserved borrowers—particularly those who are seeking smaller loans ($40,000 or less), which are generally not purchased on the secondary market. This commenter also stated that while its numbers were the product of anecdotal reports, consultation with banks in the $500 to $750 million asset range revealed that 1,000 loan originations per year is a common amount at this asset size, and that the 500-loan limit is unnecessarily restricting.

§ 1026.43(e)(5), (e)(6) and (f) receive an APR threshold of the applicable APOR plus 3.5 percentage points, rather than plus 1.5 percentage points.

[30] Specifically these provisions allow: (1) On a permanent basis, balloon-payment qualified mortgage loans made and held in portfolio by certain small creditors operating predominantly in rural or underserved areas; and (2) for a temporary two year transition period—from January 10, 2014 to January 10, 2016—balloon-payment qualified mortgages originated by small creditors even if they do not operate predominantly in rural or underserved areas. To meet the ''operating predominantly'' in ''rural'' or ''underserved'' areas requirement, during any of the preceding three calendar years the creditor must have extended more than 50 percent of its total covered transactions, as defined by § 1026.43(b)(1), and secured by a first lien, on properties that are located in counties that are either ''rural'' or ''underserved,'' as defined by § 1026.35(b)(2)(iv). *See* § 1026.35(b)(2)(iii)(A), the further section-by-section analysis of this requirement, and the Bureau's proposal to modify this provision.

[31] Specifically, this provision allows: (1) On a permanent basis, small creditors that operate predominantly in rural or underserved areas to originate high-cost loans with balloon-payment features; and (2) for loans made on or before January 10, 2016, small creditors to originate high-cost mortgages with balloon-payment features even if they do not operate predominantly in rural or underserved areas, under certain conditions. *See* § 1026.32(d)(1)(ii)(C).

[32] Lending activities of many creditors that currently qualify as small are generally limited to a single community. However, creditors that would qualify as small if the proposed provisions are adopted generally lend and have branches (in the case of depository institutions) in several communities and counties.

[33] However, the Bureau notes that, from the perspective of consumers, potential lack of economies of scale matters only to the extent that it affects access to credit.

[34] Amendments to the 2013 Mortgage Rules Under the Truth in Lending Act (Regulation Z), 79 FR 25730 (May 6, 2014).

One community banking association recommended that all community bank mortgage loans that are held in portfolio for the life of the loan receive qualified mortgage safe harbor status and exemption from escrow requirements if they are higher-priced mortgage loans. This commenter noted that a limit of 500 total first-lien originations per year is only 41 first-lien mortgages per month, or nine per week, an amount that a small creditor could easily exceed. It stated further that most community banks that exceed either or both the asset limit or origination limit have all the attributes of traditional, relationship-based community banks, and that it found that the origination limit, which it noted is extremely low for most community banks, is not consistent with the asset limit. The commenter urged the Bureau, at a minimum, to increase the origination limit to at least 2,000 first-lien mortgage loans, or to disregard loans sold into the secondary market when applying the annual loan limit.

Other industry commenters supported increasing the origination limit to 1,000 loans per year—asserting, for example, that: (1) This would increase the number of small creditors covered by 10 percent; (2) a 1,000 loan threshold more appropriately matches the $2 billion asset limit, *i.e.,* entities with $2 billion in assets have at least 500 annual originations and a number originate more than 500 loans; and (3) a number of entities operate close to the 500 origination limit, and a 1,000 limit will provide smaller creditors with a cushion for fluctuation in mortgage volume, saving them the expense of preventative compliance measures in anticipation of exceeding the limit.

A residential mortgage industry consulting firm commenter asserted that a bank with under 500 originations per year and another bank with originations between 500 and 1,000—but still under $2 billion in assets—are both likely to be community banks with the virtues of an elevated level of service and personal attention to borrowers. Both banks, this commenter noted, are equally unable to spread the costs of compliance across an organization in the way a very large institution is able to do—another fact, this commenter asserted, that is a reason for the small creditor exception in the first place.

Some industry commenters in advocating for a higher loan origination limit argued that the Bureau's reliance on HMDA data for the 500 origination limit was flawed. For example, one state bankers association noted that the Bureau stated that, based on HMDA data, the small creditor definition would include: 95 percent of creditors with less than $500 million in assets; 74 percent of creditors with assets between $500 million and $1 billion; and 50 percent of creditors with assets between $1 billion and $2 billion. It then stated that it polled its member banks and did not find this to be true in its state and reminded the Bureau, because of that state's limited number of metropolitan statistical areas (MSAs) and rural nature, many creditors are not HMDA reporters. It concluded that basing small-creditor status on HMDA origination numbers is flawed when attempting to analyze rural lending patterns.

Another state bankers association (in advocating for an increase of the origination limit to 1500 loans) noted that the Bureau has recognized that its adoption of annual origination limits and asset size limits were significantly constrained by data limitations. It stated further that, as the Bureau relied on its analysis of HMDA data to set the requirements for small-creditor status, data from institutions not subject to HMDA reporting (*i.e.,* institutions with less than $43 million in assets, under the calendar year 2014 asset size threshold for HMDA reporting) were not considered.

In addition to recommending increasing the origination limit, some commenters alternatively suggested that the origination limit either be applied to originated loans only if held in portfolio or that the limit exclude loans held in portfolio.

In the first category of these commenters, *i.e.,* those suggesting that the origination limit be applied to originated loans only if held in portfolio, one state credit union association stated that, due to the legal liability risk that surrounds non-qualified mortgages, some small credit unions (under $2 billion in assets) have made the business decision to offer only qualified mortgages. It stated that, of these small credit unions, a portion sell loans on the secondary market, which causes them to exceed the 500 total first-lien origination limit. If the loan does not meet the general definition of qualified mortgage, this commenter noted, it cannot be sold on the secondary market and the alternative definitions of qualified mortgage generally requires the credit union to keep the loan in portfolio for three years, unless an exception is met. It recommended therefore that the 500 loan origination limit is more properly placed on first-lien covered transactions originated in the preceding year kept in portfolio versus all first-lien covered transactions originated in the preceding year which would include those sold on the secondary market. Alternatively, this organization recommended that the 500 loan origination limit needs to be significantly increased for creditors that sell on the secondary market and also keep loans in portfolio.

Also in this first category of commenters (*i.e.,* those suggesting the origination limit only include portfolio loans) was a non-profit research and policy organization which commented that the 500-loan origination limit could be increased in narrow circumstances, such as increasing the loan origination limit for rural banks, or redefining the 500 limit to loans held in portfolio. And, as noted, a community banking association recommended that the Bureau, as an alternative to increasing the origination limit to 2,000 loans, disregard loans sold into the secondary market when applying the origination threshold number.

In the second category of commenters (*i.e.,* those suggesting that loans held in portfolio be excluded from the origination limit), a state bankers association strongly recommended that the Bureau expressly state that loans held in an institution's portfolio are not counted toward the origination limit for small-creditor status, in addition to recommending that the origination limit be raised to 1,500 loans in a calendar year. This commenter stated that expansion of the small creditor category would help avoid contraction of the availability of mortgage credit. It stated that many creditors that currently qualify as small creditors are given the incentive to limit their mortgage lending to remain within the small creditor category—due to the exemptions afforded to small creditors.

Among other industry recommendations for revising the loan origination limit was a recommendation by a state bankers association that the Bureau revise the provision in which the loan origination limit must include originations by all the creditor's affiliates, in addition to the creditor. This commenter suggested that the Bureau revise the definition so that the origination limit includes only originations by the creditor and its non-depository financial institution affiliates, such as finance companies, mortgage companies, and brokers. The organization stated that, in doing this, small creditors that are owned by the same bank holding company, but operate independently, will be more likely to continue to meet the lending needs of their communities and still enjoy creditor protections from regulatory and legal risk offered by the

small creditor qualified mortgage safe harbor.

As noted, consumer group commenters generally did not support an increase in the 500-loan origination limit, at least without evidence of harm justifying an increase. Two consumer group commenters in their joint comment letter stated, for example, that creditors making 500 or more loans (and likely even fewer) should be able to comply with the Bureau's ability-to-repay/qualified mortgage requirements. They noted that 500 loans likely involve millions of dollars and this exception will already affect thousands of borrowers. Expanding this exception any further, they asserted, will substantially weaken the Bureau's ability-to-repay/qualified mortgage requirements and should not be done without an overwhelmingly clear and urgent justification. Such a justification does not currently exist, they stated. For that reason they recommended that the Bureau should leave the current limit unchanged. Another fair housing organization commenter mirrored the comment of these two organizations.

As noted, a non-profit research and policy organization stated that an increase in the origination limit might be justified but only with more data showing the current limit is creating problems for small creditors to conduct business and reach underserved markets. In addition the commenter urged the Bureau to continue to examine the appropriate models to determine if the 500 origination limit is in fact harming bona fide small creditors or serving as a barrier for small creditors to reach more credit worthy borrowers. It stated that any increase in the origination limit should be reasonable both to ensure that small creditors can continue to do business (in particular with underserved markets) and to ensure that larger entities will not have an opportunity to take undue advantage of a change in the rule. Unless there is substantial evidence, however, that the loan origination limit is too low, the commenter supported keeping the exception narrow and limited.

Bureau Proposal

As discussed, the Bureau proposes to revise the origination limit in § 1026.35(b)(2)(iii)(B). Specifically, the Bureau proposes to raise the origination limit from 500 covered transactions secured by a first-lien (or ''loans'') originated by the creditor and its affiliates to 2,000 such loans. The Bureau's proposal also makes the limit applicable only to loans not held in portfolio by the creditor or its affiliates. That is, under the proposal, the limit does not apply to loans that were not sold, assigned, or otherwise transferred by the creditor or its affiliates to another person, or subject to a commitment to be acquired by another person. The Bureau's proposal also adds a ''grace period'' from calendar year to calendar year to allow an otherwise eligible creditor that exceeded either the origination limit or the asset limit in the preceding calendar year to continue to operate as a small creditor with respect to applications received prior to April 1 of the current calendar year—with the benefit of the special provisions and exemptions—as if it had not exceeded the limits in the preceding year. This proposed grace period is available to creditors that exceeded the respective limits in the preceding calendar year but had not exceeded them in the calendar year prior to the preceding calendar year.

Proposed comment 35(b)(2)(iii)–1.ii explains that only originated loans not retained by the creditor or its affiliates in portfolio are counted toward the new 2,000 origination limit. The proposed comment also makes clear that a loan transferred by a creditor to its affiliate is a loan not retained in portfolio (it is a loan transferred to ''another person'') and therefore is counted toward the 2,000 origination limit. The proposed comment explains and adds examples on applying the grace period to the origination limit.

Given the comments received to date on the origination limit, the Bureau believes that an adjustment of the current origination limit, as proposed, is justified. Small creditors serve a particularly critical function for consumers in rural and underserved areas, especially when these creditors make portfolio loans for which there may be no secondary market. At the same time, the Bureau recognizes consumer groups' concerns that an expansion of the origination limit could undermine the Bureau's Dodd-Frank Act title XIV regulatory protections. Specifically, the Bureau also wants to ensure that the origination limit is not set at a level that will allow larger creditors to take advantage of small-creditor status to avoid important regulatory requirements that protect consumers—regulatory requirements that those larger creditors, unlike many smaller creditors, have the capacity to implement effectively.

Comments received from industry commenters are consistent and clear—the current origination limit, as currently constructed, may have the effect of limiting smaller creditors' ability to provide credit to qualified borrowers. According to commenters, the current origination limit does this by, for example, moving creditors to originate fewer loans than they otherwise would (including fewer loans for lower loan amounts that serve rural and underserved borrowers), to achieve or preserve small-creditor status. In addition, creditors that have the relationship lending models and community ties—the attributes of a creditor that the Bureau believes should be accorded small-creditor status—say that they simply have a volume of business that exceeds the current origination limit (even though they may meet the asset limit for small-creditor status).

Industry commenters consistently noted the mismatch between the origination limit and asset limit. They also stated that the origination limit was clearly the more problematic of the two limits for community banks, credit unions, and other relationship lenders. Industry commenters stated that the current origination limit is particularly difficult for those creditors that operate at the margins of the origination limit and small-creditor status. These creditors face concerns about the impact of origination volume fluctuations from year to year, which may move them from small-creditor status to non-small-creditor status on short-notice without sufficient time to modify systems and products to address such a change. This shifting status from year to year would force such creditors to incur an additional expense to plan for meeting the regulatory requirements otherwise faced by creditors without small-creditor status.

The issues cited by these commenters are clearly not the result the Bureau was seeking when it set the limits for according special status for small creditors. The Bureau's intent was not to exclude small creditors that could provide responsible, affordable credit to consumers, such as small community lenders, and thereby potentially limit the access of those consumers to creditors with a lending model, operations, and products that may meet their particular needs.

The Bureau believes its proposed origination limit addresses these issues in an effective and responsible way that is consistent with the intent of the Dodd-Frank Act in according small creditors different treatment with regard to certain requirements. Expanding the origination limit to 2,000 loan originations, and not including portfolio loans in that originations count, would increase the number of creditors that receive small-creditor status by 700 creditors, from approximately 9,700 to approximately 10,400 (as further

discussed in the Section 1022(b) Analysis below). The Bureau believes that this increase would include creditors with responsible lending models and economies of scale that fit the purpose of small-creditor status.

In particular, the proposed exclusion from the origination limit count of loans held in portfolio by the creditor (and its affiliates) is a recognition that smaller institutions that originate loans to be funded out of their own assets and held in portfolio have different interests than creditors, including smaller institutions, that originate loans to sell them into the secondary market. The interests of smaller institutions making portfolio loans are more likely to be aligned with the interests of those consumers with whom they do business. The proposed exclusion of portfolio loans is also consistent with the rationale behind the additional requirements under the Bureau's rules for application of the small creditor special provisions to only those qualified mortgages that creditors retain in portfolio (*see, e.g.,* TILA section 129C(b)(2)(E) and § 1026.43(e)(5), (e)(6) and (f)). The rationale articulated by the Bureau in that instance applies here—that the discipline imposed when small creditors make loans that they will hold in their portfolios is important to protect the consumers' interest and to prevent evasion. In other words, the Bureau's proposal not to include portfolio loans in the origination limit count is based on a recognition not only of the small creditor's community-based focus and commitment to relationship lending, but also the inherent incentives associated with portfolio lending by smaller institutions.

The proposed grace period also addresses industry commenters' concerns regarding the impact of origination volume fluctuations from year to year. These commenters noted that small creditors on the margins of the origination limit could lose small-creditor status on short notice. The proposed grace period allows an otherwise eligible creditor that exceeded the origination limit in the preceding calendar year to continue to operate with respect to applications received before April 1 of the current calendar year with the benefit of the small creditor exemptions. Such a creditor could operate as if it had not exceeded the limits in the preceding year, as long as the creditor did not exceed the origination limit in the year prior to the preceding calendar year. This proposed grace period should provide the time for creditors to make any needed adjustments to change their systems to come into compliance with the Bureau's regulatory requirements. It also helps alleviate additional preparation burdens creditors might otherwise confront in anticipation of not meeting the small creditor origination limit.

The Bureau's primary goal is to draw the appropriate line between small and large creditors, and to strike the right balance between preserving consumer access to credit, eliminating regulatory requirements that would hinder the ability of small creditors to provide that access to credit to potential borrowers, and maintaining effective consumer protections. The Bureau therefore continues to seek comment on alternative methods of achieving the purposes underlying small-creditor status and, specifically, for setting the origination limit and alternatives to the proposed grace period.

35(b)(2)(iii)(C)

The Bureau proposes to amend § 1026.35(b)(2)(iii)(C) to include in the calculation of the $2 billion asset limit the assets of the creditor's affiliates that originate covered transactions secured by a first lien. Proposed comment 35(b)(2)(iii)–1.iii provides that, for purposes of § 1026.35(b)(2)(iii)(C), in addition to the creditor's assets, only the assets of a creditor's ''affiliate'' as defined in § 1026.32(b)(5) that originates covered transactions (as defined by § 1026.43(b)(1)) secured by a first lien are counted toward the asset limit. Thus, under the proposed rule, only assets of affiliates that engage in the type of mortgage lending covered by Regulation Z's ability-to-repay provisions are counted toward the asset limit.

Counting both the creditor's assets and the assets of the creditor's affiliates that originate mortgage loans would make the tests for determining small-creditor status consistent between the asset limit in § 1026.35(b)(2)(iii)(C) and the origination limit in § 1026.35(b)(2)(iii)(B), which currently includes the originations of the creditor's affiliates in determining whether the limit has been exceeded. This additional consistency between the two tests may facilitate creditor compliance with the special provisions and exemptions for small creditors, including those that operate predominantly in rural or underserved areas, of which the two tests are a part. More significantly, the Bureau believes that this change follows logically from the other changes being proposed here.

As noted, only the assets of the creditor's affiliates that originate mortgage loans are counted toward the asset limit under the proposed rule. Given the proposed change to the origination limit to exclude the creditor's and its affiliate's portfolio loans from counting toward that limit, the Bureau believes the proposed change to the asset limit is necessary to ensure that small-creditor status does not become a means for larger creditors to evade important requirements that provide consumer protections.

As noted previously, although it was not required to do so, the Bureau established an asset limit because it believed that it is important to preclude a very large creditor with relatively modest mortgage operations from taking advantage of a provision designed for much smaller creditors with much different characteristics and incentives and that lack the scale to make compliance less burdensome. The Bureau wants to prevent a situation where creditors with substantially more than $2 billion in assets (but that did not exceed the proposed origination limit of 2,000 non-portfolio loans) could create affiliate relationships with a number of entities—all under the $2 billion asset limit—that could then originate an unlimited number of loans to be held in portfolio and maintain status as small creditors. Such a creditor is not the type of small entity that the Bureau intended to take advantage of the special provisions and exemptions provided to smaller creditors.

The Bureau is seeking comment on this proposed change to § 1026.35(b)(2)(iii)(C) (and the corresponding change to comment 35(b)(2)(iii)–1.iii) to include in the calculation of the $2 billion asset limit the assets of the creditor's affiliates that originate covered transactions secured by a first lien. In particular the Bureau is interested in comments on the potential impact of this change on creditors and access to credit, and the potential for larger creditors to obtain small-creditor status without this change and the possible impact on consumers. In addition, the Bureau seeks comment on its proposal to count only the assets of the creditor's affiliates that originate covered transactions secured by a first lien toward the origination limit—and not the assets of other affiliates of the creditor.

The Bureau also proposes to add a grace period to the $2 billion asset limit in § 1026.35(b)(2)(iii)(C). This proposed grace period allows an otherwise eligible creditor that exceeded the asset limit in the preceding calendar year to continue to operate as a small creditor with respect to applications received before April 1 of the current calendar year. Such a creditor could operate with the benefit of the small creditor special provisions and exemptions (assuming

the origination limit and other applicable regulatory requirements are met) with respect to such applications. This proposed grace period is available to creditors that exceeded the asset limit in the preceding calendar year but had not exceeded it in the calendar year prior to the preceding calendar year.

Proposed comment 35(b)(2)(iii)–1.iii explains that creditors meet the asset limit for any higher-priced mortgage loan consummated during calendar year 2016 if the creditors' total assets (which include, in addition to the creditors' assets, the assets of the creditors' affiliates that originate mortgage loans) are under the applicable asset limit on December 31, 2015. The proposed comment explains further that creditors that did not satisfy the applicable asset limit on December 31, 2015 satisfy the asset limit criterion for a higher-priced mortgage loan consummated during 2016 if the application for the loan was received before April 1, 2016 and the creditors had total assets under the applicable asset limit on December 31, 2014. The proposed comment also adds to the 2013 calendar year asset limit currently listed in the comment the thresholds for calendar year 2014 and for calendar year 2015. In providing the threshold for calendar year 2015 ($2,060,000,000), the proposed comment explains that creditors that had total assets of less than $2,060,000,000 on December 31, 2014, satisfy this criterion for purposes of (1) any loan consummated during 2015 and (2) any loan consummated during 2016 for which the application was received before April 1, 2016.

The Bureau proposes the grace period to provide consistency in requirements for creditors seeking and maintaining small-creditor status. The Bureau is seeking comment, however, on the need for the grace period for the asset limit, in light of industry comments indicating that the origination limit was the main focus of concern regarding failure to meet small-creditor status and the impact of origination volume fluctuations causing failure to meet that limit with possible little advance notice.

35(b)(2)(iii)(D)

In general, § 1026.35(b)(2)(iii)(D) currently prohibits any creditor from availing itself of the exemption from escrow requirements in § 1026.35(b)(2)(iii) if the creditor maintains escrow accounts for any extension of consumer credit secured by real property or a dwelling that it or its affiliate currently services. However, § 1026.35(b)(2)(iii)(D) generally provides that a creditor may qualify for the exemption if such escrow accounts were established for first-lien higher-priced mortgage loans on or after April 1, 2010, and before January 1, 2014, or were established after consummation as an accommodation for distressed consumers.[35] In light of the proposed expansion of the ''small'' and ''rural'' definitions in §§ 1026.35(b)(2)(iii)(B) and 1026.35(b)(2)(iv)(A) discussed above and below, the Bureau proposes to substitute January 1, 2016 for January 1, 2014 where it appears in § 1026.35(b)(2)(iii)(D)(*1*) and its commentary. This proposed change prevents any creditors that are currently ineligible for the escrow exemption, but that would qualify if the proposed definitional changes are adopted, from losing eligibility for the escrow exemption because of escrow accounts they established for first-lien higher-priced mortgage loans pursuant to requirements in the current rule.

Creditors that do not currently meet the requirements in § 1026.35(b)(2)(iii)(A) through (D) are generally required under § 1026.35(b) to establish escrow accounts for any higher-priced mortgage loans those creditors make. However, if the expansions of the origination limit and rural definitions in proposed §§ 1026.35(b)(2)(iii)(B) and 1026.35(b)(2)(iv)(A) are finalized, it is possible that some creditors that currently are ineligible under § 1026.35(b)(2)(iii)(A) or (B) would meet the conditions in § 1026.35(b)(2)(iii)(A) and (B) after the changes take effect. Even if such creditors satisfy the condition set forth in § 1026.35(b)(2)(iii)(C), however, current § 1026.35(b)(2)(iii)(D) would generally deem them ineligible for exemption after the effective date if they maintain an escrow account that they were required to set up prior to the effective date.

If the proposed changes to § 1026.35(b)(2)(iii) and (iv) are finalized, the Bureau does not believe that such creditors should lose the exemption simply because they were required by applicable regulations to establish escrow accounts prior to January 1, 2016. As the Bureau discussed in the Supplementary Information to the January 2013 Escrows Final Rule and again in finalizing amendments to the January 2013 Escrows Final Rule in the September 2013 Final Rule, the Bureau believes creditors should not be penalized for compliance with the current regulation.[36] The Bureau thus believes it is appropriate to amend § 1026.35(b)(2)(iii)(D)(*1*) and comment 35(b)(2)(iii)(D)(*1*)–1 to exclude escrow accounts established on or after April 1, 2010 and before January 1, 2016. This proposed change makes creditors eligible for the exemption provided under proposed § 1026.35(b)(2)(iii) if they otherwise meet the requirements of § 1026.35(b)(2)(iii) and they do not establish new escrow accounts for transactions for which they receive applications on or after January 1, 2016, other than those described in § 1026.35(b)(2)(iii)(D)(*2*).

To conform the commentary to this change, the Bureau also proposes to change January 1, 2014 to January 1, 2016 where it appears in comment 35(b)(2)(iii)(D)(*1*)–1. Proposed comment 35(b)(2)(iii)(D)(*1*)–1 thus clarifies that the date ranges provided in § 1026.35(b)(2)(iii)(D)(*1*) apply to transactions for which creditors received applications on or after April 1, 2010, and before January 1, 2016.

The Bureau solicits comment on the Bureau's proposed amendments to § 1026.35(b)(2)(iii)(D)(*1*) and comment 35(b)(2)(iii)(D)(*1*)–1, and specifically the exclusion of escrow accounts established on or after April 1, 2010 and before January 1, 2016 from the limitation in § 1026.35(b)(2)(iii)(D). In particular, the Bureau seeks comment on the need for the proposed changes and the impact on consumers of extending the exemption to the escrow requirements in § 1026.35(b)(1).

35(b)(2)(iv)(A)

''Rural''

Section 1026.35(b)(2)(iv)(A) currently defines a county as ''rural'' during a calendar year if it is neither in an MSA nor in a micropolitan statistical area that is adjacent to an MSA, as those terms are defined by the U.S. Office of Management and Budget and as they are applied under currently applicable UICs, established by the USDA–ERS. It further provides that a creditor may rely as a safe harbor on the list of counties published by the Bureau to determine whether a county qualifies as ''rural'' for a particular calendar year. Comments 35(b)(2)(iv)–1 and –2 provide additional

[35] Comment 35(b)(2)(iii)(D)(*1*)–1 clarifies that the date ranges provided in § 1026.35(b)(2)(iii)(D)(*1*) apply to transactions for which creditors received applications on or after April 1, 2010, and before January 1, 2014.

[36] With respect to loans where escrows were established on or after April 1, 2010, and before June 1, 2013, the Supplementary Information to the January 2013 Escrows Final Rule explained that creditors should not be penalized for compliance with the then current regulation, which would have required any such loans to be escrowed after April 1, 2010, and prior to June 1, 2013—the date the exemption took effect. January 2013 Escrows Final Rule, 78 FR 4725, 4739; *see also* September 2013 Final Rule, 78 FR 60382, 60416.

clarification about how to determine which counties fall within this definition and examples.

The Bureau proposes to expand the ''rural'' definition in § 1026.35(b)(2)(iv)(A) to capture additional areas classified as ''rural'' by the Census Bureau, without affecting the status of any counties that would be deemed rural under the Bureau's existing definition. For technical reasons, the Bureau also proposes to move the discussion of the safe harbor list of counties provided by the Bureau that is currently in § 1026.35(b)(2)(iv)(A) and comment 35(b)(2)(iv)(A)–1 to new § 1026.35(b)(2)(iv)(C) and proposed comment 35(b)(2)(iv)(A)–1.iii, which are discussed below.[37]

In response to the January 2013 ATR Proposal and to proposed amendments to the January 2013 Escrows Final Rule, the Bureau received a number of comments regarding how ''rural'' and ''underserved'' should be defined for purposes of the balloon-payment qualified mortgage provisions and the escrow exemption. 78 FR 30739, 30741 (May 23, 2013); 78 FR 35430, 35491 (June 12, 2013). Commenters including national and State trade groups representing creditors and dozens of small creditors argued that the current definitions of rural and underserved are too restrictive and do not adequately preserve consumers' access to credit.

Some of these commenters proposed that the Bureau adopt alternate definitions of ''rural,'' such as those used by the U.S. Department of Agriculture's Rural Housing Loan Program or the Farm Credit System. One industry trade association suggested that the rural definition should include all non-metropolitan counties, as well as communities with populations of less than 50,000. Another commenter suggested that any place not within one of the Census Bureau's ''urbanized areas,'' which contain 50,000 or more people, should be considered rural. A credit union association suggested that credit unions with ''rural'' community charters should be exempt. It also objected to the current rule's provision that a county designated as a micropolitan statistical area is not ''rural'' if it is adjacent to an MSA.

Several commenters criticized the current definition's assumption that an entire county is either rural or non-rural. These commenters noted that many counties are in fact made up of a mix of rural and non-rural areas. One industry trade association commenter noted that by excluding entire counties the Bureau is excluding many rural communities where community banks provide much of the mortgage financing through loans they originate and retain in portfolio. According to the commenter, many of these loans are balloon-payment loans, and many community banks do not escrow for taxes and insurance.

Many commenters cited examples of areas that they believe are truly rural but that are not classified as rural by the current regulation. Two trade association commenters noted, for example, that only 3 counties in Maryland qualified as rural, even though many of the remaining areas in Maryland are serviced by the Farm Credit System. Other commenters noted that less than a third of Louisiana parishes qualified as ''rural,'' even though by many measures Louisiana is a very rural state.

A number of commenters expressed concern that if the rural definition is not expanded, the number of new lenders entering markets that appear to be rural in nature but that fall outside of the definition will decrease. They indicated that some existing lenders will either exit these markets or curtail certain types of lending, leaving consumers in these areas with few choices. Commenters noted that the ability to originate mortgages with balloon payments is important to small creditors, who often have unique product pricing risks and also may not have adequate staff or training to produce the additional disclosures required by adjustable-rate mortgages.[38]

Since the Bureau announced that the definition was under review, it has received additional feedback on the rural definition outside of the formal comment process. For example, one industry trade association urged the Bureau to expand the rural definition if it did not make the special provisions and exemptions more broadly available in other ways. The association noted that the current definition of ''rural'' adopted by the January 2013 ATR Final Rule and the January 2013 Escrows Final Rule covers only about 7 percent of the U.S. population, whereas the Census Bureau recognizes about 20 percent of the U.S. population as living in a rural area.

The Bureau believes that its current county-based approach facilitates application of the ''rural'' definition because it is easy to discern the county in which a property is located and to check whether that county appears on the lists published by the Bureau. However, the Bureau also appreciates the concern that has been raised by commenters that the current definition excludes from the definition certain areas that might otherwise be identified as rural, solely on the basis of the county in which the area is located. Many counties are large and may include both rural and urban areas, as commenters have noted.

The Bureau has considered a variety of possible approaches that could be used to identify areas that are smaller than counties that may be rural in nature. Of these, the Bureau believes that the urban-rural classification completed by the Census Bureau every ten years may be the most suitable for the Bureau's current purposes. This classification is done at the level of the census block, which is the smallest geographic area for which the Census Bureau collects and tabulates decennial census data. While there are only about 3,000 counties in the United States, there are approximately 11 million census blocks.[39] The Census Bureau delineates census blocks as ''urban'' or ''rural'' based on each decennial census and most recently released its list of urban areas based on the 2010 Census in 2012. For the 2010 Census, an urban area consists of ''a densely settled core of census tracts and/or census blocks that meet minimum population density requirements, along with adjacent territory containing non-residential urban land uses as well as territory with low population density included to link outlying densely settled territory with the densely settled core.'' [40] The Census Bureau identifies two types of urban areas: ''urbanized areas'' of 50,000 or more people, and ''urban clusters'' of at least 2,500 and less than 50,000 people. Under the Census Bureau's classification, ''rural'' encompasses all population, housing, and territory not

[37] This proposed move is consistent with a similar move that the Bureau proposes with respect to the safe harbor discussion that currently appears with the ''underserved'' definition in § 1026.35(b)(2)(iv)(B).

[38] In its comments in 2013, one industry trade association reported that in a recent survey of approximately 400 members that are community banks, 75 percent indicated they currently make balloon-payment mortgages, and only 46 percent would be able to use the balloon mortgage exemption to the ability-to-repay rule. It also noted that, of the banks that responded to the survey that considered themselves to be rural or in a rural community, 44 percent did not meet the Bureau's definition of rural.

[39] Census Bureau, *2010 Census Tallies of Census Tracts, Block Groups & Blocks, https://www.census.gov/geo/maps-data/data/tallies/tractblock.html.*

[40] Census Bureau, *2010 Census Urban and Rural Classification and Urban Area Criteria, https://www.census.gov/geo/reference/ua/urban-rural-2010.html.* To qualify as an urban area, the territory identified must encompass at least 2,500 people, of which at least 1,500 must reside outside institutional group quarters such as correctional facilities, group homes for juveniles, and mental (psychiatric) hospitals.

included within either type of urban area.

The Bureau proposes to ensure that areas with rural characteristics that are located in counties with both rural and urban characteristics are included within the Bureau's definition. The proposal adds a second prong to the definition in § 1026.35(b)(2)(iv)(A), which includes areas designated as ''rural'' by the Census Bureau in the urban-rural classification it completes after each decennial census. To implement this change, proposed § 1026.35(b)(2)(iv)(A) provides that an area is rural during a calendar year if it is either (1) a county that meets the Bureau's current rural definition (*i.e.,* a county that is neither in an MSA nor in a micropolitan statistical area that is adjacent to an MSA, as those terms are defined by the U.S. Office of Management and Budget and as they are applied under currently applicable UICs, established by USDA–ERS), or (2) a census block that is not in an urban area, as defined by the Census Bureau using the latest decennial census of the United States. The proposed definition affects the exemption to the escrow requirement for higher-priced mortgage loans in § 1026.35(b)(2)(iii), the allowance for balloon-payment qualified mortgages in § 1026.43(f), and the exemption from the balloon-payment prohibition on high-cost mortgages in § 1026.32(d)(1)(ii)(C).[41]

The proposed definition of ''rural'' maintains the bright-line, easy-to-apply county-based test from the current definition, while also bringing into the definition rural pockets within counties that are non-rural under the current rule.[42] Because the Census Bureau's classification is done at the census block level, it provides much more granularity than any county-based metric. To prepare the rural-urban classification, the Census Bureau uses measures based primarily on population counts and residential population density, but also considers a variety of criteria that account for nonresidential urban land uses, such as commercial, industrial, transportation, and open space that are part of the urban landscape.[43] Since the 1950 Census, the Census Bureau has reviewed and revised these criteria as necessary for each decennial census. The Census Bureau completes its rural-urban classification every ten years based on the results of the decennial census, on roughly the same schedule that the USDA–ERS uses in updating its UIC designations, which should provide a relatively stable but up-to-date measure.

In light of the changes proposed to the structure of § 1026.35(b)(2)(iv)(A), the Bureau proposes for technical reasons to move the discussion of the lists of counties provided by the Bureau from § 1026.35(b)(2)(iv)(A) and comment 35(b)(2)(iv)–1 to new proposed § 1026.35(b)(2)(iv)(C) and comment 35(b)(2)(iv)–1.iii.A, which are discussed below. The Bureau also proposes revisions to comment 35(b)(2)(iv)–1 that: (1) Conform to the changes made to § 1026.35(b)(2)(iv), (2) add a cross-reference to comment 35(b)(2)(iii)–1, and (3) make technical changes for clarity.

The Bureau also proposes to update the example provided in comment 35(b)(2)(iv)–2.i to reflect the new prong that the Bureau proposes to add to the definition. Proposed comment 35(b)(2)(iv)–2.i explains that an area is considered ''rural'' for a given calendar year based on the most recent available UIC designations by the USDA–ERS and the most recent available delineations of urban areas by the Census Bureau that are available at the beginning of the calendar year. As the proposed comment notes, these designations and delineations are updated by the USDA–ERS and the Census Bureau respectively once every ten years. The comment provides an illustrative example.

The Bureau solicits comment on whether it should add a second prong to the rural definition based on the Census Bureau's urban-rural classification and, if so, whether it should make any modifications to the Census Bureau's classification in doing so. Although the Bureau proposes to maintain the current county-based test as part of the new definition, the Bureau also solicits comment on whether the counties included in the current definition should be expanded, contracted, eliminated, or maintained as is. The Bureau also requests feedback on any alternative approaches to defining ''rural'' areas in § 1026.35(b)(2)(iv)(A) that commenters believe might be preferable to the Bureau's proposal.

35(b)(2)(iv)(B)

''Underserved''

Section 1026.35(b)(2)(iv)(B) defines a county as ''underserved'' during a calendar year if, according to HMDA data for the preceding calendar year, no more than two creditors extended covered transactions, as defined in § 1026.43(b)(1), secured by a first lien, five or more times in the county. It further provides that a creditor may rely as a safe harbor on the list of counties published by the Bureau to determine whether a county qualifies as ''underserved'' for a particular calendar year. For technical reasons, the Bureau proposes to move the discussion of the lists of counties provided by the Bureau that appears in § 1026.35(b)(2)(iv)(B) and comment 35(b)(2)(iv)–1 to proposed new § 1026.35(b)(2)(iv)(C) and comment 35(b)(2)(iv)–1.iii.A.[44] The Bureau also proposes other technical changes to § 1026.35(b)(2)(iv)(B) and comments 35(b)(2)(iv)–1 and 35(b)(2)(iv)–2.ii and proposes to add a reference in comment 35(b)(2)(iv)–2.ii to the new grace period under § 1026.35(b)(2)(iii)(A).

Although most of the feedback that the Bureau has received relating to the definition of ''rural or underserved'' has focused on the definition of ''rural,'' some commenters have also suggested that the Bureau's definition of ''underserved'' is under-inclusive and have urged the Bureau to consider alternative definitions of ''underserved.'' The proposed changes to the ''rural'' definition discussed above expand the term ''rural or underserved'' for purposes of the exemption to the escrow requirement for higher-priced mortgage loans in § 1026.35(b)(2)(iii), the allowance for balloon-payment qualified mortgages in § 1026.43(f), and the exemption from the balloon-payment prohibition on high-cost mortgages in § 1026.32(d)(1)(ii)(C). Because these provisions only mention ''underserved'' when ''rural'' is listed in the alternative (rural or underserved), the Bureau believes that expanding the ''rural'' definition as proposed would address the concerns that have been raised by commenters about the overall coverage of ''rural or underserved.'' The Bureau has considered alternative definitions but believes that the current

[41] The proposed addition of a census block prong in § 1026.35(b)(2)(iv)(A)'s ''rural'' definition would not affect the scope of the exemption from a requirement to obtain a second appraisal for certain higher-priced mortgage loans in the January 2013 Interagency Appraisals Final Rule, since that exemption applies to credit transactions made by a creditor in a ''rural county'' as defined in § 1026.35(b)(2)(iv)(A). This definition of ''rural county'' would be retained in § 1026.35(b)(2)(iv)(A) as proposed § 1026.35(b)(2)(iv)(A)(*1*).

[42] For example, Culpeper County, Virginia is part of the Washington-Arlington-Alexandria, DC–VA–MD–WV MSA and does not currently qualify as ''rural'' under existing § 1026.35(b)(2)(iv)(A). Because the Census Bureau defined some census blocks within Culpeper County as rural in its most recent rural-urban classification, those portions of the county qualify as rural under proposed § 1026.35(b)(2)(iv)(A) until the next Census Bureau rural-urban classification.

[43] *See Qualifying Urban Areas for the 2010 Census,* 77 FR 18652 (March 27, 2012); *Urban Area Criteria for the 2010 Census,* 76 FR 53030 (Aug. 24, 2011); *Proposed Urban Area Criteria for the 2010 Census,* 75 FR 52174 (Aug. 24, 2010).

[44] This proposed move is consistent with a similar move that the Bureau proposes with respect to the safe harbor discussion that currently appears with the ''rural'' definition in § 1026.35(b)(2)(iv)(A).

definition of ''underserved'' appropriately identifies areas where the withdrawal of a creditor from the market could leave no meaningful competition for consumers' mortgage business. The Bureau therefore does not propose any substantive changes to the definition of ''underserved'' at this time.

35(b)(2)(iv)(C)

Section 1026.35(b)(2)(iv)(A) and (B) and comment 35(b)(2)(iv)–1 currently provide that a creditor may rely as a safe harbor on the list of counties published by the Bureau to determine whether a county qualifies as ''rural'' or ''underserved'' for a particular calendar year. As noted above, the Bureau proposes to move the discussion of these county lists to new § 1026.35(b)(2)(iv)(C)(*1*) and comment 35(b)(2)(iv)–1.iii.A. In light of the expanded definition of ''rural,'' the Bureau also proposes to add two new safe harbor provisions in § 1026.35(b)(2)(iv)(C)(*2*) and (*3*) relating to automated online tools that may be provided by the Bureau or the Census Bureau.

The Bureau proposes technical changes to the safe harbor provision relating to its county lists and also proposes to publish its county lists in the **Federal Register**. Proposed comment 35(b)(2)(iv)–1.iii.A also states that, to the extent that U.S. territories are treated by the Census Bureau as counties and are neither MSAs nor micropolitan statistical areas adjacent to MSAs, such territories will be included on these lists as rural areas in their entireties.

Because the proposed changes to § 1026.35(b)(2)(iv) create the possibility that some counties would include both rural and non-rural areas, the Bureau has also adjusted the discussion of the county lists in proposed § 1026.35(b)(2)(iv)(C)(*1*) to make it clear that the lists would not include counties that are partially rural and partially non-rural. The Bureau does not believe it would be practical to publish lists of the census blocks that would qualify as rural under proposed § 1026.35(b)(2)(iv)(A)(*2*) because there are approximately 11 million census blocks in the United States.

To assist creditors in implementing the proposed rural definition, the Bureau may develop an automated tool that allows creditors to enter property addresses, both individually and in batches, on the Bureau's public Web site to determine whether the properties are located in a rural or underserved area for the relevant calendar years. The Bureau does not anticipate that such a tool would be available prior to the proposed effective date for this rule, but it proposes that such a tool could provide a safe harbor if and when it becomes available. Specifically, proposed § 1026.35(b)(2)(iv)(C)(*2*) provides that a property shall be deemed to be in an area that is ''rural'' or ''underserved'' in a particular calendar year if the property is designated as rural or underserved for that calendar year by any automated tool that the Bureau provides on its public Web site.

Until any tool that the Bureau may develop becomes available, the Bureau anticipates that creditors would use resources provided by the Census Bureau to determine whether proposed § 1026.35(b)(2)(iv)(A)(*2*) is satisfied—*i.e.,* whether a property or batch of properties is not located in an urban area (defined as either an urbanized area or an urban cluster), as delineated by the Census Bureau. The Census Bureau publishes maps, lists, and other reference materials on its Web site.[45] It also currently provides on its Web site an address search function that allows users to enter a property address to obtain census information about the property, including a designation that the property is in an urban area if that is the case.[46] The Bureau proposes that this tool or any similar tool provided by the Census Bureau could be relied on as a safe harbor. Specifically, proposed § 1026.35(b)(2)(iv)(C)(*3*) provides that a property shall be deemed to be in an area that is ''rural'' or ''underserved'' in a particular calendar year if the property is not designated as located in an urban area as defined by the most recent delineation of urban areas announced by the Census Bureau by any automated address search tool that the Census Bureau provides on its public Web site for that purpose.

Proposed comments 35(b)(2)(iv)–1.iii.B and C discuss the safe harbors related to these online tools. Proposed comment 35(b)(2)(iv)–1.iii.C clarifies the calendar years for which the Census Bureau's address search tool can be used, by noting that for any calendar year that begins after the date on which the Census Bureau announced its most recent delineation of urban areas, a property is deemed to be in a rural area if the search results provided for the property by any such tool available on the Census Bureau's public Web site do not designate the property as being in an urban area. This is consistent with proposed comment 35(b)(2)(iv)–2.i, which explains that an area is considered ''rural'' for a given calendar year based on the most recent available UIC designations by the USDA–ERS and the most recent available delineations of urban areas by the Census Bureau that are available at the beginning of the calendar year.

The Bureau solicits comment on whether Regulation Z should provide a safe harbor for automated tools of this nature. The Bureau is also interested in any feedback relating to how it could make the automated tool it is considering developing most useful to industry and other stakeholders as they implement the rural and underserved definitions.

Section 1026.43 Minimum Standards for Transactions Secured by a Dwelling

43(e) Qualified Mortgages

43(e)(5) Qualified Mortgage Defined—Small Creditor Portfolio Loans

Section 1026.43(e)(5) defines a category of qualified mortgages originated by certain small creditors that enjoy special treatment in the ability-to-repay rules. These mortgages must be originated by creditors that meet the origination limit and asset limit in § 1026.35(b)(2)(iii)(B) and (C), and the creditors must hold the loans in portfolio for at least three years after consummation, with certain exceptions. Such a small creditor portfolio loan can be a qualified mortgage even if the borrower's total debt-to-income ratio exceeds the 43 percent debt-to-income ratio limit that otherwise applies to general qualified mortgage loans under § 1026.43(e)(2). Qualified mortgages originated by small creditors are entitled to a safe harbor under the Bureau's ability-to-repay rule if the loan's APR does not exceed the applicable APOR by 3.5 or more percentage points—in contrast to the general qualified mortgage safe harbor which covers loans with APRs that do not exceed APOR by 1.5 or more percentage points.

The Bureau proposes several changes to the commentary to § 1026.43(e)(5) to conform to the Bureau's proposed changes to the origination limit and the asset limit in § 1026.35(b)(2)(iii)(B) and (C). Proposed comment 43(e)(5)–4

[45] Census Bureau, *2010 Census Urban and Rural Classification and Urban Area Criteria, https://www.census.gov/geo/reference/ua/urban-rural-2010.html.*

[46] *See generally* Census Bureau, *Frequently Asked Questions: How can I determine if my address is urban or rural?, https://ask.census.gov/faq.php?id=5000&faqId=6405* (''The 2010 Urban Areas can be viewed using Reference maps and the TIGERweb interactive web mapping system. In addition, beginning in the fall of 2012, the American FactFinder Address Search Tool will contain urban and rural information.''); *see also* Census Bureau, American FactFinder, *http://factfinder2.census.gov/faces/nav/jsf/pages/index.xhtml* (providing a link to an address search function that allows users to find Census data by entering a street address).

regarding creditor qualifications provides that to be eligible to make a qualified mortgage under § 1026.43(e)(5) the creditor has to satisfy the requirements of § 1026.35(b)(2)(iii)(B) and (C), including the Bureau's proposed changes to the origination limit and the asset limit, respectively, and the addition of the grace periods. The Bureau proposes to revise comment 43(e)(5)–8, regarding the transfer of a qualified mortgage to another qualifying creditor prior to three years after consummation, to conform to the proposed origination limit and asset limit in § 1026.35(b)(2)(iii)(B) and (C).

43(e)(6)(ii)

Section 1026.43(e)(6) provides for a temporary balloon-payment qualified mortgage that requires all of the same criteria to be satisfied as the balloon-payment qualified mortgage definition in § 1026.43(f) except the requirement that the creditor extend more than 50 percent of its total first-lien covered transactions in counties that are ''rural'' or ''underserved.'' Pursuant to § 1026.43(e)(6)(ii), this temporary provision applies only to covered transactions consummated on or before January 10, 2016 (the sunset date). The Bureau now proposes to change § 1026.43(e)(6)(ii) to provide that the temporary provision applies only to covered transactions for which the application was received before April 1, 2016. This proposed change gives small creditors more time to understand how any changes that the Bureau may make to the rural definition and lookback period will affect their status, if at all, and to make any required changes to their business practices.[47] It also expands the scope of the temporary balloon-payment qualified mortgage provision to include certain transactions that have not been consummated as of the sunset date but for which the creditor has already received applications. This proposed change also affects the HOEPA balloon-loan provisions, because the Bureau extended the exception to the general prohibition on balloon features for high-cost mortgages under § 1026.32(d)(1)(ii)(C) to allow small creditors, regardless of whether they operate predominantly in ''rural'' or ''underserved'' areas, to continue originating balloon high-cost mortgages if the loans meet the requirements for qualified mortgages under §§ 1026.43(e)(6) or 1026.43(f).

The Bureau anticipates finalizing any changes to the rural definition and lookback period in the fall of 2015. Proposed § 1026.43(e)(6)(ii) allows small creditors that are benefiting from the temporary qualified mortgage balloon-loan expansions but that will not meet the rural or underserved definition for calendar year 2016 more time to transition their business practices.[48] The Bureau solicits comment on whether it should change the sunset date in § 1026.43(e)(6)(ii) and whether § 1026.43(e)(6)(ii) should use the date the application was received or the consummation date in applying the sunset date.

43(f)

Section 1026.43(f)(1) provides an exemption to the general prohibition on qualified mortgages having balloon-payment features (under § 1026.43(e)(2)(C)) if the creditor satisfies the requirements stated in § 1026.35(b)(2)(iii)(A), (B), and (C) and other criteria are met. Pursuant to § 1026.43(f)(2), a qualified mortgage made under this section, known as a balloon-payment qualified mortgage, immediately loses its qualified mortgage status upon transfer in the first three years after consummation, unless the transfer is to a creditor that satisfies the requirements in § 1026.35(b)(2)(iii)(A), (B), and (C) or one of the other exceptions listed in § 1026.43(f)(2) applies.

The Bureau proposes to revise comments 43(f)(1)(vi)–1 and 43(f)(2)(ii)–1 to reflect the proposed revisions that are described in the section-by-section of analysis of § 1026.35 above, including the new grace periods and expanded tests that the Bureau proposes in § 1026.35(b)(2)(iii)(A), (B), and (C), the broader rural definition that the Bureau proposes in § 1026.35(b)(2)(iv)(A), and the safe harbor provisions that the Bureau proposes in § 1026.35(b)(2)(iv)(C). Proposed comment 43(f)(1)(vi)–1.i.A and B also includes updated examples to reflect these changes in the regulation text.

In lieu of listing out the asset limits in comment 43(f)(1)(vi)–1.iii, the Bureau also proposes to include a cross-reference in comment 43(f)(1)(vi)–1.iii indicating that the Bureau publishes notice of the asset limit each year by amending comment 35(b)(2)(iii)–1.iii. The Bureau also proposes technical changes to comments 43(f)(1)(vi)–1, 43(f)(2)–2, and 43(f)(2)(ii)–1.

VI. Dodd-Frank Act Section 1022(b) Analysis

A. Overview

In developing the proposed rule, the Bureau has considered potential benefits, costs, and impacts.[49] The Bureau requests comment on the preliminary discussion presented below as well as submissions of additional data that could inform the Bureau's consideration of the benefits, costs, and impacts. The Bureau has consulted, or offered to consult with, the prudential regulators, the Federal Housing Finance Agency, the Federal Trade Commission, the U.S. Department of Agriculture, the U.S. Department of Housing and Urban Development, the U.S. Department of the Treasury, the U.S. Department of Veterans Affairs, and the U.S. Securities and Exchange Commission, including regarding consistency with any prudential, market, or systemic objectives administered by such agencies. The Bureau has also consulted with the Census Bureau on proposed § 1026.35(b)(2)(iv)(A)(*2*).

As discussed in greater detail elsewhere throughout this Supplementary Information, the Bureau proposes several amendments to the Bureau's Regulation Z and official interpretations relating to escrow requirements for higher-priced mortgage loans under the Bureau's January 2013 Escrows Final Rule and ability-to-repay/qualified mortgage requirements under the Bureau's January 2013 ATR Final Rule and May 2013 ATR Final Rule. Since publication of the 2013 Title XIV Final Rules, the Bureau has received extensive feedback on the definitions of ''small creditor'' and ''rural and underserved areas'' with many commenters criticizing the Bureau for defining ''rural'' and ''underserved'' too narrowly and urging the Bureau to consider alternative definitions. This proposed rule reflects feedback from stakeholders regarding the Bureau's definitions of small creditor and rural and underserved areas as those definitions relate to special provisions

[47] Qualified mortgages consummated under § 1026.43(e)(6) based on applications received before April 1, 2016 would retain their qualified mortgage status after that date, as long as the other requirements of § 1026.43(e)(6) are met.

[48] For ease of reference for industry participants, this proposed new sunset date under § 1026.43(e)(6)(ii) coincides with the end of the new proposed grace periods in § 1026.35(b)(2)(iii) for otherwise-eligible creditors whose covered first-lien transactions meet all of the applicable tests in § 1026.35(b)(2)(iii)(A) through (C) in calendar year 2014 but not in calendar year 2015.

[49] Specifically, section 1022(b)(2)(A) of the Dodd-Frank Act calls for the Bureau to consider the potential benefits and costs of a regulation to consumers and covered persons, including the potential reduction of access by consumers to consumer financial products or services; the impact on depository institutions and credit unions with $10 billion or less in total assets as described in section 1026 of the Dodd-Frank Act; and the impact on consumers in rural areas.

and certain exemptions provided to small creditors under the Bureau's aforementioned rules.

The discussion below considers the benefits, costs, and impacts of the following key provisions of the proposed rule (proposed provisions):

- Raising the loan origination limit for determining eligibility for small-creditor status;
- An expansion of the definition of ''rural area'' to include (1) a county that meets the current definition of rural county or (2) a census block that is not in an urban area as defined by the Census Bureau; and
- An extension of the temporary two-year transition period that allows certain small creditors to make balloon-payment qualified mortgages and balloon-payment high cost mortgages regardless of whether they operate predominantly in rural or underserved areas.

With respect to these provisions, the discussion considers costs and benefits to consumers and costs and benefits to covered persons. The discussion also addresses certain alternative provisions that were considered by the Bureau in the development of the proposed rule. The Bureau has chosen to evaluate the benefits, costs, and impacts of the proposed rule against the current state of the world.[50] That is, the Bureau's analysis below considers the benefits, costs, and impacts of the proposed provisions relative to the current regulatory regime, as set forth primarily in the January 2013 ATR Final Rule, the May 2013 ATR Final Rule, and the January 2013 Escrows Final Rule.[51] The baseline considers economic attributes of the relevant market and the existing regulatory structure.

The Bureau has relied on a variety of data sources to consider the potential benefits, costs and impacts of the proposed provisions, including the public comment record of various Board and Bureau rules.[52] However, in some instances, the requisite data are not available or are quite limited. Data with which to quantify the benefits of the rule are particularly limited. As a result, portions of this analysis rely in part on general economic principles to provide a qualitative discussion of the benefits, costs, and impacts of the proposed rule.

The primary source of data used in this analysis is 2013 data collected under HMDA. The empirical analysis also uses data from the 4th quarter 2013 bank and thrift Call Reports,[53] and the 4th quarter 2013 credit union Call Reports from the NCUA, to identify financial institutions and their characteristics. Unless otherwise specified, the numbers provided include appropriate projections made to account for any missing information, for example, any institutions that do not report under HMDA. The Bureau also utilized the data from the Bureau's Consumer Credit Panel.[54]

Especially in light of some of the comments received by the Bureau that were discussed in the section-by-section analysis, it is worth emphasizing that the Bureau analyzes data from all creditors, both the ones that report under HMDA and the ones that do not, with the exception of non-depository institutions that do not report under HMDA. For HMDA reporters, the Bureau uses the data reported. For HMDA non-reporters, the Bureau uses projections based on the match of the Call Report data with HMDA.

The proposed provisions would expand the number of institutions that are eligible to originate certain types of qualified mortgages and to take advantage of certain special provisions under the January 2013 ATR Final Rule, the May 2013 ATR Final Rule, the January 2013 Escrows Final Rule, and the 2013 HOEPA Final Rule.[55] The first set of special provisions is tailored to creditors deemed as small (small creditors) without regard to the location of their originations. Small creditors can originate qualified mortgages without regard to the bright-line debt-to-income ratio limit that is otherwise required to meet the Bureau's general qualified mortgage requirements (small creditor portfolio special provision). Qualified mortgages originated by small creditors are entitled to a safe harbor with an APR over 1.5 percentage points over APOR, as long as these loans have an APR of less than 3.5 percentage points over APOR (small creditor portfolio SH special provision).

The second set of special provisions applies only to small creditors that operate predominantly in rural or underserved areas (rural small creditors). Rural small creditors can originate qualified mortgages with balloon-payment features, as long as these loans are kept in portfolio (rural qualified mortgage balloon-payment special provision) and other requirements are met.[56] These qualified mortgages with balloon-payment features are entitled to a safe harbor as long as these loans have an APR of less than 3.5 percentage points over APOR. Also, rural small creditors are generally allowed to originate higher-priced mortgage loans without setting up an escrow account for property taxes and insurance (rural higher-priced mortgage loan escrow special provision).

Among other things, the proposed provisions expand the number of small creditors by changing the origination limit on the number of loans that a small creditor could have originated annually together with its affiliates from no more than 500 to no more than 2,000. The proposed rule's origination limit would also count only loans not held in portfolio by the creditor and its affiliates that originate covered transactions secured by first liens toward that limit. Similar to the currently effective

[50] In particular, the Bureau compares the impacts of the proposed provisions against the state of the world after January 2016 if the proposed provisions do not come into effect.

[51] The Bureau has discretion in future rulemakings to choose the relevant provisions to discuss and to choose the most appropriate baseline for that particular rulemaking.

[52] The quantitative estimates in this analysis are based upon data and statistical analyses performed by the Bureau. To estimate counts and properties of mortgages for entities that do not report under HMDA, the Bureau has matched HMDA data to Call Report data and National Mortgage Licensing System data and has statistically projected estimated loan counts for those depository institutions that do not report these data either under HMDA or on the NCUA Call Report. The Bureau has projected originations of higher-priced mortgage loans in a similar fashion for depositories that do not report under HMDA. These projections use Poisson regressions that estimate loan volumes as a function of an institution's total assets, employment, mortgage holdings, and geographic presence.

[53] Every national bank, State member bank, and insured nonmember bank is required by its primary Federal regulator to file consolidated Reports of Condition and Income, also known as Call Reports, for each quarter as of the close of business on the last day of each calendar quarter (the report date). The specific reporting requirements depend upon the size of the bank and whether it has any foreign offices. For more information, see *http://www2.fdic.gov/call_tfr_rpts/*.

[54] The Consumer Credit Panel is a longitudinal, nationally representative sample of approximately 5 million deidentified credit records from one of the nationwide consumer reporting agencies. The sample provides tradeline-level information for all of the tradelines associated with each credit report record each month, including a commercially-available credit score. This information was used for the analysis of how consumers' credit scores differ depending on the size of the financial institution originating the consumers' mortgage loans.

[55] As explained in the section-by-section analysis above, the exception to the general prohibition on balloon-payment features for high-cost mortgages in the 2013 HOEPA Final Rule would also be affected by the proposed provisions. However, the Bureau believes that the effect of the proposed rule on the rural balloon-payment provision in the 2013 HOEPA Final Rule is relatively small, in terms of both the consumers and covered persons affected, and thus the Bureau does not discuss this effect of the proposed rule in this 1022(b) analysis.

[56] As discussed in the section-by-section analysis, there is also a temporary two-year provision that allows small creditors, regardless of whether they operate predominantly in rural or underserved areas, to originate qualified mortgage balloon-payment loans and high-cost mortgages with balloon-payment features. This proposed rule extends the end-date for that temporary provision.

provisions, the proposed provisions include a requirement that creditors have less than $2 billion in total assets (adjusted annually), but under the proposed rule this threshold would apply to the creditor's assets combined with the assets of the creditor's affiliates that originate covered transactions secured by first liens rather than just the creditor's own assets.[57]

Based on 2013 data, the Bureau estimates that the number of small creditors would increase from approximately 9,700 to approximately 10,400 if these proposed provisions are adopted (out of the 11,150 creditors in the United States that the Bureau estimates are engaged in mortgage lending). In 2013, the approximately 700 additional creditors originated about 720,000 loans (roughly 10 percent of the overall residential mortgage market), of which about 175,000 were kept in portfolio. Of these 175,000 portfolio loans, the Bureau estimates that about 15,000 were portfolio higher-priced mortgage loans and 88 percent of those had an APR between 1.5 and 3.5 percentage points over APOR.[58]

The proposed provisions also expand the areas deemed rural for the purposes of the rural small creditor special provisions described above. Currently, areas deemed rural are counties that are neither in an MSA nor in a micropolitan statistical area that is adjacent to an MSA. In addition to the current definition, the proposed provisions also count as rural areas census blocks that are deemed rural by the Census Bureau.[59] Based on 2013 data, the Bureau estimates that the number of rural small creditors would increase from about 2,400 to about 4,100 if the proposed provisions are adopted.[60] The additional 1,700 creditors originated about 220,000 loans, out of which 120,000 are estimated to be portfolio loans and about 26,000 of those are estimated to be higher-priced mortgage loans. The Bureau is not able to estimate currently what percentage of these 120,000 portfolio loans are balloon-payment loans.

B. Potential Benefits and Costs to Consumers and Covered Persons

Consumer Benefits

Consumer benefit from the proposed provisions is a potential expansion in access to credit. Access to credit concerns meant to be addressed by the rural small creditor provisions and the small creditor provisions are interrelated, thus the Bureau discusses them jointly in this subsection.[61]

In general, most consumer protection regulations have two effects on consumers. Regulations restrict particular practices, or require firms to provide additional services, in order to make consumers better off. However, restricting firms' practices or requiring additional services might result in firms increasing their prices or discontinuing certain product offerings, potentially resulting in reduced access to credit.

The aforementioned small and rural small creditor special provisions were included in the January 2013 ATR Final Rule and the January 2013 Escrows Final Rule (along with the May 2013 ATR Final Rule) in order to alleviate any potential access to credit concerns. Note that some of these provisions were Congressionally mandated. The proposed provisions expand the number of financial institutions that qualify for these special provisions. Accordingly, there are two effects on consumers that originate their mortgage loans with the creditors that would be exempted if the proposed provisions were finalized: A potential benefit from an increase in access to credit and a potential cost from reduction of certain consumer protections.

As noted above, the potential benefit of the proposed provisions for consumers is a potential increase in access to credit. The magnitude of this potential increase depends on whether, but for the provisions in the proposed rule affecting rural small creditors: (1) Financial institutions that would be covered by the proposed provisions would stop or curtail originating mortgage loans in particular market segments or would increase the price of credit in those market segments in numbers sufficient to have an adverse impact on those market segments, (2) the financial institutions that would remain in those market segments would not provide a sufficient quantum of mortgage loan origination at the non-increased price, and (3) there would not be significant new entry into the market segments left by the departing institutions. If, but for the proposed rule, all three of these scenarios would be realized, then the proposed rule increases access to credit.

Analogously, the magnitude of this potential increase in access to credit depends on whether, in the absence of the provisions in the proposed rule affecting small creditors and escrow accounts:[62] (1) Financial institutions that would be covered by the proposed provisions have already stopped or curtailed originating mortgage loans in particular market segments or increased the price of credit in those market segments in numbers sufficient to have an adverse impact on those market segments, (2) the financial institutions that remained in those market segments do not provide a sufficient quantum of mortgage loan origination at the non-increased price, and (3) there has not been a significant new entry into the market segments left by the departed institutions. If, but for the proposed rule, all three of these scenarios are realized, then the proposed rule increases access to credit.

The Bureau received comments suggesting that access to credit will indeed be curtailed but for the proposed provisions (or is already curtailed, but

[57] All the numbers below are presented considering the affiliates' assets to the extent that the affiliates' assets are aggregated in the Call Reports, thus the number of newly exempted institutions and the number of loans that they originated could be slightly different from what the Bureau is reporting. The Bureau does not believe that aggregating assets of affiliates that originate covered transactions secured by first liens for the purposes of the $2 billion asset prong would result in many, if any, creditors that would be considered small under the currently effective rule, but would not be considered small under the proposed rule.

[58] The percentage of loans with an APR that was 1.5 to 3.5 percentage points over APOR is based exclusively on HMDA data.

[59] As discussed further above, census blocks deemed rural are census blocks that are not in an urban area (*i.e.,* neither in an urbanized area nor in an urban cluster) as defined by the Census Bureau.

[60] The Bureau used data from several sources to estimate whether a given creditor would be considered rural in 2013 according to both the current state of the world and if the proposed rule were adopted. The Bureau used HMDA data for the creditors that report to the dataset. Since creditors only have to report the census tract of the property's location, the Bureau assumed that a property in a particular census tract has the same chance of being rural as the percentage of that tract's population that lives in rural census blocks (this information is available from the Census Bureau). For the depository institutions that did not report under HMDA, the Bureau is aware of the location of the creditors' branches. The Bureau assumed that mortgage lending is spread equally across a creditor's branches. The Bureau also assumed that if a branch is in a given county, then the same proportion of loans in this branch originated to consumers living in rural or underserved areas as the percentage of population living in rural or underserved areas in that county.

Note that the 4,100 includes creditors that would not have qualified as small but for the proposed rule. However, out of the 700 creditors that would not have qualified as small but for the proposed rule, only around 10 percent qualify as rural even if the proposed provisions expanding rural areas are adopted.

[61] Note that there is a difference in the current effect of the rules: currently, the creditors that are small, but not rural, enjoy the same special provisions as rural small creditors under the January 2013 ATR Final Rule and the May 2013 ATR Final Rule due to a temporary two-year provision in the May 2013 ATR Final Rule. This temporary provision is discussed in the section-by-section analysis above.

[62] Note the difference in baselines: currently, due to the temporary two-year provision discussed in the section-by-section, all the small creditors are eligible for the special provisions that apply to rural small creditors, except for the provisions in the January 2013 Escrows Final Rule.

would be increased if a rule similar to this proposal is finalized). These comments are discussed in the section-by-section analysis. The evidence provided in these comments appears to be largely anecdotal. The Bureau's data do not refute the commenters' assertions; however, the Bureau does not have the direct evidence to estimate the degree to which the proposed provisions would increase access to credit.

In a series of analyses, the Bureau did not find specific evidence that the proposed provisions would increase access to credit when analyzing data on various consumers' characteristics (credit scores,[63] loan amounts relative to income,[64] availability of smaller amount loans,[65] and pricing[66]), collateral (census tracts with portfolio-only lending[67]), and competition (number of creditors active in a county, even assuming that all the creditors that would be small,[68] or small and rural, due to the proposed rule would exit if the proposed rule is not adopted).

However, the Bureau's data are not complete and do not permit the Bureau to analyze various relevant hypotheses. For example, one possible theory that the Bureau's data do not confirm or negate is that there might be a lack of access to credit due to the particular idiosyncrasies of a property despite the fact that other properties in the same census tract are eligible for government-sponsored entity (GSE) backing. These idiosyncrasies could include, for instance, the absence of a septic tank on the property or the availability of running water only on some properties in that census tract.

Note that the presence of competition raises an important point related to some of the industry comments provided to the Bureau. While many commenters asserted access to credit issues, the implicit proof was that some smaller financial institutions could be originating fewer loans. However, even if true, that could simply mean that the same consumer would get a loan from a larger creditor instead. The Bureau's analysis of the data implies that this is at least a possibility.[69]

Similarly, many commenters raised concerns that smaller financial institutions lack the economies of scale necessary for effective compliance and implementation of, for example, adjustable-rate mortgage disclosures or escrows. While this might be true, to the extent that outsourcing and contracting have not alleviated this issue, this is only a concern to consumers to the extent that larger creditors would not originate these loans. In other words, the lack of economies of scale is a concern to consumers only to the extent that the market would be less competitive than it would otherwise be if the proposed provisions are finalized.

Consumer Costs

The potential cost to consumers of the proposed provisions is the reduction of certain consumer protections as compared to the baseline established by the January 2013 ATR Final Rule, the May 2013 ATR Final Rule, and the January 2013 Escrows Final Rule. These consumer protections include a consumer's private cause of action against a creditor for violating the general ability-to-repay requirements and the requirement that every higher-priced mortgage loan has an associated escrow account for the payment of property taxes and insurance for five years.

In addition, under the January 2013 ATR Final Rule, after January 10, 2016, creditors that do not meet the definition of ''small'' and ''rural or underserved'' will not be able to claim qualified mortgage status for any newly-originated balloon-payment loans. Classifying a loan as a qualified mortgage when it would not have been a qualified mortgage otherwise (utilizing the small creditor portfolio special provision or the rural qualified mortgage balloon-payment special provision) or making a loan a safe harbor qualified mortgage loan when it would have otherwise been a rebuttable presumption qualified mortgage (utilizing the small creditor portfolio SH special provision) makes it more difficult for consumers to sue their creditor successfully for failing to properly evaluate the consumers' ability to repay while originating the loans.

A creditor may have an incentive to originate loans without considering ability to repay to the full extent. As the Bureau noted in the January 2013 ATR Final Rule, there are at least three reasons why these incentives exist. First, the creditor might re-sell the loan to the secondary market or might have at least a portion of the default risk insured by a third party. In this case, the creditor does not have the privately optimal incentive to verify ability to repay. The December 2014 Credit Risk Retention Final Rule's requirement of ''skin in the game'' is designed to

[63] Using the Bureau's Consumer Credit Panel for 2013, the Bureau analyzed borrowers' credit score distributions at creditors with various yearly origination counts. There was no significant difference between the creditors that would qualify as small if the proposed rule was finalized and larger creditors, including both the median credit scores and the lower tails of the distribution (for example, the 10th percentile of FICO scores).

[64] A relationship lender might help consumers by, potentially, originating loans with a higher DTI ratio because, for example, the relationship lender is aware that the consumer is at a high DTI only temporarily. Using HMDA data, and analyzing the loan-to-income ratio as a proxy for DTI (since both variables are available in HMDA), shows that the median consumer of a small creditor has a loan-to-income ratio of 2.3. The figure is the same for larger creditors.

[65] A commenter suggested that smaller creditors might be originating more loans for smaller amounts (the commenter suggested a threshold of $40,000). According to the Bureau's analysis, while it might be true that smaller creditors make a disproportionate number of smaller amount loans, the majority of the smaller loans are made by larger creditors, and a sizable portion of smaller loans are made by creditors that already enjoy the special provisions under the currently effective rules.

[66] Instead of extending more credit, relationship lenders might be extending cheaper credit if they believe that their consumers are, effectively, less risky. In that case, given similar credit-risk profiles, the Bureau could expect that smaller creditors provide cheaper loans. However, higher-priced mortgage loans comprise on average 8.3 percent of the portfolio of creditors that would be deemed small due to the proposed rule and 22.2 percent of the portfolio of creditors that would be deemed small and rural due to the proposed rule. In comparison, the figure for larger creditors is 4.0 percent.

[67] If the area nearby a property is sparsely populated, a lack of comparable properties for appraisal can be a concern. In 2013, there were about 400 tracts where the only HMDA-reported loans originated were portfolio loans (out of the roughly 73,000 tracts in HMDA). About 200 of these tracts had more than one loan originated in 2013. These 400 tracts had fewer than 1,000 loans between them; of these loans, about 400 were made by creditors that originate over 5,000 loans a year and about 300 were made by creditors that made fewer than 500 loans a year.

[68] The Bureau analyzed HMDA 2013 county-level data. For purposes of the statistics here and below, ''counties'' is used to refer to counties and county equivalents. The Bureau considered counties where there are currently at most five creditors operating, and at least one of these creditors would qualify as small only if the proposed rule is adopted. The Bureau's analysis shows that there are only a few counties like this, both for the purposes of the small creditor special provisions and for the purposes of the rural small creditor special provisions.

The cutoff of five competitors is arguably enough to ensure a sufficient amount of competition for a close-to-homogenous product. However, the Bureau does not mean to imply that, for example, first-lien covered transactions in a county constitute a market in the antitrust sense.

[69] To the extent that the effect of the already effective rules might shed light on this topic, the January 2013 Escrows Final Rule has a special provision allowing rural small creditors to originate higher-priced mortgage loans without providing an escrow account. Available evidence indicates that, after the rule went into effect in June 2013, rural small creditors were just as likely to begin originating higher-priced mortgage loans as other creditors. Moreover, the counties where rural small creditors that started originating loans operate did not experience an increase in access to credit. *See* Alexei Alexandrov & Xiaoling Ang, *Identifying a Suitable Control Group Based on Microeconomic Theory: The Case of Escrows in the Subprime Market,* SSRN working paper (Dec. 30, 2014), *available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2462128.*

ameliorate this issue.[70] Second, the loan officer might not have the right incentive to verify a consumer's ability to repay due to internal organization issues: the loan officer might be benefiting from the creditor's eventual profit due to the loan only proximately and, potentially, the loan officer might have a suboptimal compensation scheme (for example, compensating simply based on the volume originated). Third, the creditor is unlikely to consider a consumer's private costs of foreclosure and the negative externality arising from the foreclosure process.[71] In particular, since the Great Depression, balloon-payment loans have been seen by economists and consumer advocates as raising particular risks of foreclosure.[72] The provision of a private cause of action solves, to an extent, this negative externality issue.

Counting only the loans that are not kept in portfolio towards the origination limit ensures that a small creditor can always originate more portfolio loans without being concerned with the possibility of crossing the origination limit. The fact that a creditor keeps the loan in portfolio gives the creditor more incentives not to originate a loan that a consumer would not be able to repay: it potentially deals with the ''skin in the game'' issue described above.

However, a creditor keeping a loan in portfolio does not fully ensure that the creditor will only originate loans that consumers are able to repay. First, as noted above, ''the negative effect on the neighborhood is an externality that will not be taken into account by private lenders even if their foreclosure decisions are privately optimal.'' [73] Second, it is important to note that a loan can be in portfolio (and thus eligible for special provisions provided by the proposed rule), yet fully or almost fully insured by a third party. In these cases, the creditor does not bear the risk for these loans even though the loan is in portfolio: there is no or little ''skin in the game.'' [74] Finally, the loan officer might not be compensated optimally, although advocates of relationship lending suggest that smaller creditors do not suffer from the internal organization problems described above to the same extent as larger creditors. The Bureau requests comment and any data shedding light on the degree of such concerns, particularly at creditors that would be deemed small solely due to the proposed rule.

Escrow accounts protect consumers from a financial shock (sometimes unexpected, especially for first-time buyers) of having to pay the first lump-sum property tax bill all at once, possibly soon after spending much of the household's savings on the downpayment and closing costs. Recent research argues that postponing that payment by nine months (which an escrow account approximates by spreading payments over time) decreases the probability of an early payment default by 3 to 4 percent.[75] As noted in the January 2013 Escrows Final Rule, costs to consumers of not having escrow accounts also include the inconvenience of paying several bills instead of one; the lack of a budgeting device to enable consumers not to incur a major expense later on; and the possibility of underestimating the overall cost of maintaining a residence.

The extent of the potential cost to consumers depends on whether, but for the proposed provisions expanding the special provisions of the January 2013 ATR Final Rule and May 2013 ATR Final Rule: (1) Creditors that would qualify for special provisions solely due to the proposed provisions would have incentives to originate loans that do not consider consumers' ability to repay despite these loans being in the creditors' portfolios; (2) consumers of these creditors who proved unable to repay would be unable to secure effective loss mitigation options from the creditors that would leave consumers as well off as they would have been without getting a loan that they proved to be unable to repay; and (3) absent the proposed provisions, these creditors would have stronger incentives to consider consumers' ability to repay or the consumers would elect to sue their local lender, would succeed in obtaining counsel to represent them, and would prevail in such suits. The Bureau does not possess evidence to confirm or deny whether these conditions are satisfied. Anecdotal evidence suggests that smaller lenders' loans performed better than larger lenders loans through the crisis.

Similarly, the extent of the potential cost to consumers from expanding the special provisions of the January 2013 Escrows Final Rule depends on whether but for the proposed provisions: (1) The creditors that would be exempted solely due to the proposed provisions would not provide escrow accounts for five years despite these loans being in the creditors' portfolios; (2) consumers of these creditors who experienced a shock due to the first-time lump-sum payment and proved to be unable to repay were unable to secure effective loss mitigation options from the creditors that would leave the consumers as well off as they otherwise would have been with an escrow account; and (3) consumers of these creditors actually experience such shocks.

As noted above, the Bureau estimates that the about 1,700 creditors that would be small and rural under the proposed provisions, but not under the currently effective rule, originated about 220,000 loans and 120,000 portfolio loans in 2013. Out of those 120,000 portfolio loans, 26,000 were portfolio higher-priced mortgage loans. The Bureau does not possess a good estimate of what percentage of these 120,000 portfolio loans are balloon-payment loans. Assuming HPML lending continued at the same level among these creditors, about 26,000 loans would lose the mandatory escrow protections; however, many of these creditors might extend escrow protections despite not being subject to a requirement to do so.

The Bureau believes that the approximately 700 creditors that would be small under the proposed provisions, but not under the currently effective rule, originated 720,000 loans, including 175,000 portfolio loans, in 2013. Out of those 175,000 portfolio loans the Bureau estimates that about 15,000 were portfolio higher-priced mortgage loans and 88 percent of those had an APR between 1.5 and 3.5 percentage points over APOR.[76] The Bureau believes that about 13,000 loans would be deemed safe harbor qualified mortgages due to the proposed provisions. The Bureau does not possess a good estimate of what percentage of these 175,000 portfolio loans would not have been

[70] 79 FR 77602 (Dec. 24, 2014).

[71] *See* John Y. Campbell et al., *Consumer Financial Protection,* 25(1) Journal of Economic Perspectives 91, 96 (2011). ''[A] rationale for government mortgage policy is a public interest in reducing the incidence of foreclosures, which, as we mentioned, reduce not only the value of foreclosed properties, but also the prices of neighboring properties [. . .]. The negative effect on the neighborhood is an externality that will not be taken into account by private lenders even if their foreclosure decisions are privately optimal.''

[72] *Id.* ''In the late 1920s, the dominant mortgage form was a short-term balloon loan that required frequent refinancing. Low house prices and reduced bank lending capacity in the early 1930s prevented many homeowners from refinancing, causing a wave of foreclosures that exacerbated the Depression.''

[73] *Id.* at 96.

[74] Note that if the third party is, for example, the FHA, then the loan would currently be a qualified mortgage regardless of whether this proposed rule is finalized.

[75] *See* Nathan B. Anderson & Jane Dokko, *Liquidity Problems and Early Payment Default Among Subprime Mortgages,* Federal Reserve's Finance and Economics Discussion Series, *available at http://www.federalreserve.gov/pubs/feds/2011/201109/201109pap.pdf.*

[76] The percentage of loans with an APR that was 1.5 to 3.5 percentage points over APOR is based exclusively on HMDA data.

qualified mortgages but for the small creditor special provision.

Covered Person Benefits and Costs

The creditors that would enjoy the special provisions due to the proposed provisions would experience benefits roughly symmetric to the protections that consumers lose. In particular, creditors that would qualify as rural small creditors would be able to originate qualified mortgage balloon-payment portfolio loans and pass the risk onto consumers, and small creditors could originate portfolio loans that would not be qualified mortgages or safe harbor qualified mortgages otherwise, resulting in a reduced probability of a successful lawsuit.[77] Additionally, rural small creditors would reduce accounting and compliance costs of providing escrow accounts. To be eligible for these benefits, the firms might need to spend a nominal amount on checking whether they qualify for the special provision.

Some of these firm benefits could be passed through to consumers in terms of lower prices or better service. Economic theory suggests that the pass-through rate should be higher the more competitive markets are, all else being equal.[78] However, a market being competitive would suggest lesser access to credit concerns. The Bureau does not possess the data required to estimate the applicable pass-through rates, and will therefore not discuss the pass-through possibilities further.

The benefit of originating balloon-payment loans to the firms is cheaper risk management. With balloon-payment loans, both the interest rate risk and the risk of the consumers' credit files deteriorating are borne by the consumers. While the creditor is arguably the lowest cost avoider in both cases, consumers might not realize the riskiness involved in balloon-payment loans, encouraging the creditor to pass on the risk to consumers. The Bureau does not possess a good estimate of what percentage of these creditors' portfolio loans are balloon-payment loans.

The Bureau believes that an additional 1,700 creditors would qualify as small and rural were the proposed provisions adopted. These creditors would not have to provide consumers with escrow accounts when originating higher-priced mortgage loans; however, the Bureau believes that about 1,300 of the 1,700 creditors already originate higher-priced mortgage loans, thus these savings might be small (or none) for these firms since these firms currently have to provide escrow accounts. Note, that the marginal costs of providing an escrow account are small, if not negative: For various reasons, a creditor that has an escrow system established generally prefers consumers to establish an escrow account even if one is not required by government regulations.

Approximately 700 creditors would be deemed as small due to the proposed provisions. These creditors originated approximately 175,000 portfolio loans in 2013, out of which about 13,000 loans would be deemed safe harbor qualified mortgages due to the proposed provisions. The Bureau does not possess sufficient data to estimate what percentage of these loans would be qualified mortgages solely due to the proposed provisions. Loans being deemed qualified mortgages or safe harbor qualified mortgages imply a reduced risk of losing consumer-initiated ability-to-repay litigation. The Bureau previously estimated that this risk would account for, at most, 0.1 percent of the loan amount.

Note that all 700 creditors are currently not eligible for the small creditor special provision, and thus any sunk costs necessary to transition to originating non-qualified mortgage loans have already been incurred, except for those creditors that have decided not to originate any non-qualified mortgage loans.

To be eligible for these benefits, the creditors might need to spend a nominal amount on checking whether they qualify for the special provisions. Since the proposed provisions would be expanding special provisions and extending qualified mortgage status, covered persons would not experience any costs other than, potentially, a nominal amount to check whether they qualify for the exemptions or extensions of qualified mortgage status.

Temporary Balloon-Payment Qualified Mortgage Period—Benefits and Costs to Consumers and Covered Persons

The Bureau is proposing to provide an extension of the two-year temporary special provision that effectively deemed all small creditors rural for the purposes of the rural qualified mortgage balloon-payment special provision. This proposed temporary special provision, allowing these creditors to make qualified mortgage balloon-payment loans, is applicable (for transactions with mortgage applications received in the first three months of 2016) to any creditor that is currently small regardless of whether they operate predominantly in rural or underserved areas. The Bureau estimates that there are about 5,700 such creditors, and that they originated about 430,000 loans, out of which about 220,000 were portfolio loans in 2013. Note, that only the transactions with applications received in the first quarter of 2016 would be eligible for this special provision. The Bureau does not possess a good estimate of what percentage of these portfolio loans are balloon-payment loans.

The benefits and costs to consumers and to covered persons are identical to the ones discussed above during the discussion of the rural balloon-payment qualified mortgage special provision. Note that various property idiosyncrasies that might make access to credit an issue in rural areas are less likely for the consumers of these 5,700 creditors since they do not operate predominantly in rural areas, even as defined by the proposed rule.

The Bureau is also proposing an annual grace period for creditors that stop qualifying as either small creditors or small and rural creditors.[79] Given the proposed origination limit, the Bureau believes that the number of these transitions is likely to be low from year-to-year: the number of the creditors that are close to the proposed threshold of small is minimal in comparison to the total number qualified (approximately 10,400 small creditors and approximately 4,100 rural small

[77] There are two types of risk that creditors avoid by originating, for example, a succession of five-year balloon loans as opposed to a 30-year fixed rate loan. The first type of risk is the interest rate risk: cost of funds may increase and the fixed rate will be too cheap, in a sense, for current market conditions. This type of risk is almost fully hedged by choosing an appropriate index for a 5/5 adjustable-rate mortgage. The second type of risk is the risk of the deterioration of the consumer's idiosyncratic conditions. For example, if the consumer's credit profile deteriorates or the consumer loses their job, their fixed rate will be too cheap for that consumer's current conditions. Arguably, creditors can project this risk better than individual consumers and are the lowest cost-avoiders, especially if one assumes that moral hazard is not a major concern in this situation (that consumers are not more likely to lose a job simply because they know that their mortgage is a 30-year loan as opposed to a 5-year balloon loan).

[78] *See* Alexei Alexandrov & Sergei Koulayev, *Using the Economics of the Pass Through in Proving Antitrust Injury in Robinson-Patman Cases,* SSRN working paper (Jan. 26, 2015), *available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2555952.*

[79] Currently, creditors qualify as operating predominantly in rural or underserved areas based on a three-year lookback period: a creditor is considered as operating predominantly in rural or underserved areas as long as the creditor operated predominantly in rural or underserved areas in any of the three preceding years. Thus, this proposed provision could potentially deem a creditor that would be rural in January 2016 not rural if the proposed rule is adopted. However, the Bureau believes that this possibility will not actually occur or, in other words, any small creditor that was operating in predominantly rural or underserved areas in any of the preceding three years according to the current definition would qualify as rural small under the proposed rule.

creditors if the proposed provisions are adopted) and rural areas would change only after each decennial Census. Thus the Bureau does not estimate the effect of this provision in this 1022(b)(2) analysis.

C. Impact on Covered Persons With No More Than $10 Billion in Assets

The only covered persons affected by the proposed provisions are those with no more than $10 billion in assets. The effect on these covered persons is described above.

D. Impact on Access to Credit

The Bureau does not believe that there will be an adverse impact on access to credit resulting from the proposed provisions. Moreover, as described above, the Bureau received comments strongly suggesting that there will be an expansion of access to credit.

E. Impact on Rural Areas

The rural small creditor proposed provisions affect only creditors operating predominantly in rural or underserved areas, as defined according to the definition that the Bureau is proposing. These creditors predominantly originate loans to consumers that live in rural areas, thus the vast majority of the up to 120,000 consumers that would be affected by these provisions live in rural areas. The effect of these proposed provisions is described above.

The creditors that would qualify as small if the proposed provisions were adopted are about as well represented in rural as in non-rural counties, according to the current definition of rural, thus there would be no disproportionate effect on rural areas.[80]

F. Discussion of Significant Alternatives

Instead of proposing that a property is in a rural area if the property is either in one of the counties currently designated as rural by the Bureau or if the property is not in an urban area as designated by the Census Bureau, the Bureau considered proposing that a property is in a rural area only if the property is not in an urban area as designated by the Census Bureau. The effective difference between the two definitions is that under the proposed definition areas designated as urban areas by the Census Bureau that are located in counties currently designated as rural by the Bureau would be classified as rural, but these urban areas would not be classified as rural under the alternative.

For example, Wise County in Virginia (population of about 40,000, density of about 100 people per square mile) is currently designated as a rural area by the Bureau. Under the proposed definition the whole county remains rural. However, under the alternative definition, some census blocks in that county, including most of the census blocks that comprise the town of Wise, Virginia (population of about 3,000, density of about 1,000 people per square mile) would stop being classified as rural areas. A similar example is Gillespie County in Texas (population of about 25,000, density of about 25 people per square mile), which is entirely rural under the current definition and under the proposed definition. Most of the city of Fredericksburg (population of about 11,000, density of about 1,500 people per square mile) in Gillespie County would not be considered rural under the alternative. Overall, about 22 percent of the U.S. population lives in areas that would be deemed as rural if the proposed provisions are finalized. About 19 percent of the U.S. population lives in census blocks that are not in an urban area according to the Census Bureau.

In comparison to this alternative, the proposed provisions allow several hundred small creditors to continue to enjoy the special provisions for creditors operating predominantly in rural or underserved areas. Under the alternative, these creditors would have to incur the cost of adapting to originating mortgages without enjoying the provisions that they currently enjoy. Moreover, under the alternative, compliance might become more burdensome for the remaining creditors that would qualify as rural small creditors even if the proposed rule is not finalized: They would not be able to simply check a list of rural counties (as they do now), since parts of these counties would cease to be rural. These costs, both the cost of adaptation for some creditors and the cost of more complicated compliance for others, are likely fixed, and economic theory suggests that these creditors would not pass these costs on to consumers.

Other consumer benefits and costs and covered persons benefits and costs of these several hundred small creditors ceasing to qualify as rural are similar to the ones described above for the proposed provisions in general.

VII. Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, requires each agency to consider the potential impact of its regulations on small entities, including small businesses, small governmental units, and small nonprofit organizations. The RFA defines a ''small business'' as a business that meets the size standard developed by the Small Business Administration pursuant to the Small Business Act.

The RFA generally requires an agency to conduct an initial regulatory flexibility analysis (IRFA) and a final 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.[81] The Bureau also is subject to certain additional procedures under the RFA involving the convening of a panel to consult with small business representatives prior to proposing a rule for which an IRFA is required.[82]

Neither an IRFA nor a small business review panel is required for this proposal because the proposal, if adopted, would not have a significant impact on a substantial number of small entities.

The proposed rule does not have a significant economic impact on any small entities.[83] As noted in the Section 1022(b)(2) Analysis, above, the Bureau does not expect that the proposed rule would impose costs on covered persons, including small entities. All methods of compliance under current law would remain available to small entities should these provisions become effective. Thus, a small entity that is in compliance with current law would not need to take any additional action if the proposal were adopted. The Bureau requests comments on this analysis and any relevant data.

Certification

Accordingly, the undersigned certifies that this proposed rule, if adopted, does not have a significant economic impact on a substantial number of small entities.

VIII. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*), Federal agencies are generally required to seek the Office of Management and Budget (OMB) approval for information

[80] If anything, these creditors are overrepresented in non-rural counties.

[81] 5 U.S.C. 601 *et seq.*

[82] 5 U.S.C. 609.

[83] It is theoretically possible that a creditor qualifies as small under the current definition, but would fail to qualify as small due to the proposed rule provision including in the calculation of the asset limit for small-creditor status the assets of the creditor's affiliates that originate mortgage loans. The Bureau is unaware of any such creditors and the proposed rule requests comments on their prevalence.

collection requirements prior to implementation. The collections of information related to Regulation Z have been previously reviewed and approved by OMB in accordance with the PRA and assigned OMB Control Number 3170–0015 (Regulation Z). Under the PRA, the Bureau may not conduct or sponsor, and, notwithstanding any other provision of law, a person is not required to respond to an information collection unless the information collection displays a valid control number assigned by OMB.

The Bureau has determined that this proposed rule does not impose any new or revised information collection requirements (recordkeeping, reporting, or disclosure requirements) on covered entities or members of the public that would constitute collections of information requiring OMB approval under the PRA. The Bureau seeks comment on whether the proposed rule imposes any new or revised information collection requirements.

List of Subjects in 12 CFR Part 1026

Advertising, Consumer protection, Credit, Credit Unions, Mortgages, National Banks, Savings Associations, Recordkeeping requirements, Reporting, Truth in lending.

Authority and Issuance

For the reasons set forth in the preamble, the Bureau proposes to amend Regulation Z, 12 CFR part 1026, as set forth below:

PART 1026—TRUTH IN LENDING (REGULATION Z)

■ 1. The authority citation for part 1026 continues to read as follows:

Authority: 12 U.S.C. 2601, 2603–2605, 2607, 2609, 2617, 5511, 5512, 5532, 5581; 15 U.S.C. 1601 *et seq.*

Subpart E—Special Rules for Certain Home Mortgage Transactions

■ 2. Section 1026.35 is amended by revising paragraphs (b)(2)(iii)(A), (B), (C), and (D) introductory text, (D)(*1*), (b)(2)(iv)(A) and (B), and adding paragraph (b)(2)(iv)(C) to read as follows:

§ 1026.35 Requirements for higher-priced mortgage loans.

* * * * *

(b) * * *

(2) * * *

(iii) * * *

(A) During the preceding calendar year, or, if the application for the transaction was received before April 1, during either of the two preceding calendar years, the creditor extended more than 50 percent of its total covered transactions, as defined by § 1026.43(b)(1), secured by first liens on properties that are located in areas that are either ''rural'' or ''underserved,'' as set forth in paragraph (b)(2)(iv) of this section;

(B) During the preceding calendar year, or, if the application for the transaction was received before April 1, during either of the two preceding calendar years, the creditor and its affiliates together originated no more than 2,000 covered transactions, as defined by § 1026.43(b)(1), secured by first liens, that were sold, assigned, or otherwise transferred to another person, or that were subject at the time of consummation to a commitment to be acquired by another person;

(C) As of the preceding December 31st, or, if the application for the transaction was received before April 1, as of either of the two preceding December 31sts, the creditor and its affiliates that originate covered transactions, as defined by § 1026.43(b)(1), secured by a first lien, together, had total assets of less than $2,000,000,000; this asset threshold shall adjust automatically each year, based on the year-to-year change in the average of the Consumer Price Index for Urban Wage Earners and Clerical Workers, not seasonally adjusted, for each 12-month period ending in November, with rounding to the nearest million dollars (see comment 35(b)(2)(iii)–1.iii for the applicable threshold); and

(D) Neither the creditor nor its affiliate maintains an escrow account of the type described in paragraph (b)(1) of this section for any extension of consumer credit secured by real property or a dwelling that the creditor or its affiliate currently services, other than:

(*1*) Escrow accounts established for first-lien higher-priced mortgage loans on or after April 1, 2010, and before January 1, 2016; or

* * * * *

(iv) * * *

(A) An area is ''rural'' during a calendar year if it is:

(*1*) A county that is neither in a metropolitan statistical area nor in a micropolitan statistical area that is adjacent to a metropolitan statistical area, as those terms are defined by the U.S. Office of Management and Budget and as they are applied under currently applicable Urban Influence Codes (UICs), established by the United States Department of Agriculture's Economic Research Service (USDA–ERS); or

(*2*) A census block that is not in an urban area, as defined by the U.S. Census Bureau using the latest decennial census of the United States.

(B) An area is ''underserved'' during a calendar year if, according to Home Mortgage Disclosure Act (HMDA) data for the preceding calendar year, it is a county in which no more than two creditors extended covered transactions, as defined in § 1026.43(b)(1), secured by a first lien on property in the county five or more times.

(C) A property shall be deemed to be in an area that is ''rural'' or ''underserved'' in a particular calendar year if the property is:

(1) Located in a county that appears on the lists published by the Bureau of counties that are entirely rural or underserved for that calendar year,

(2) Designated as rural or underserved for that calendar year by any automated tool that the Bureau provides on its public Web site, or

(*3*) Not designated as located in an urban area as defined by the most recent delineation of urban areas announced by the Census Bureau by any automated address search tool that the U.S. Census Bureau provides on its public Web site for that purpose.

* * * * *

■ 3. Section 1026.43 is amended by revising paragraph (e)(6) to read as follows:

§ 1026.43 Minimum standards for transactions secured by a dwelling.

* * * * *

(e) * * *

(6) *Qualified mortgage defined—temporary balloon-payment qualified mortgage rules.* (i) Notwithstanding paragraph (e)(2) of this section, a qualified mortgage is a covered transaction:

(A) That satisfies the requirements of paragraph (f) of this section other than the requirements of paragraph (f)(1)(vi); and

(B) For which the creditor satisfies the requirements stated in § 1026.35(b)(2)(iii)(B) and (C).

(ii) The provisions of this paragraph (e)(6) apply only to covered transactions for which the application was received before April 1, 2016.

■ 4. In Supplement I to Part 1026—Official Interpretations:

■ A. Under *Section 1026.35—Requirements for Higher-Priced Mortgage Loans:*

■ i. Under *Paragraph 35(b)(2)(iii),* paragraph 1 is revised.

■ ii. Under *Paragraph 35(b)(2)(iii)(D)*(1)*,* paragraph 1 is revised.

■ iii. Under *Paragraph 35(b)(2)(iv),* paragraphs 1 and 2 are revised.

■ B. Under *Section 1026.43—Minimum Standards for Transactions Secured by a Dwelling:*

■ i. Under *Paragraph 43(e)(5),* paragraphs 4 and 8 are revised.
■ ii. Under *Paragraph 43(f)(1)(vi),* paragraph 1 is revised.
■ iii. Under *Paragraph 43(f)(2),* paragraph 2 is revised.
■ iv. Under *Paragraph 43(f)(2)(ii),* paragraph 1 is revised.

The revisions read as follows:

Supplement I to Part 1026—Official Interpretations

Subpart E—Special Rules for Certain Home Mortgage Transactions

* * * * *

Section 1026.35—Requirements for Higher-Priced Mortgage Loans

* * * * *

35(b) Escrow Accounts

* * * * *

35(b)(2) Exemptions

* * * * *

Paragraph 35(b)(2)(iii)

1. *Requirements for exemption.* Under § 1026.35(b)(2)(iii), except as provided in § 1026.35(b)(2)(v), a creditor need not establish an escrow account for taxes and insurance for a higher-priced mortgage loan, provided the following four conditions are satisfied when the higher-priced mortgage loan is consummated:

i. During the preceding calendar year, or during either of the two preceding calendar years if the application for the loan was received before April 1, more than 50 percent of the creditor's total covered transactions, as defined in § 1026.43(b)(1), are secured by first liens on properties located in areas that are either ''rural'' or ''underserved,'' as set forth in § 1026.35(b)(2)(iv).

A. In general, whether this condition (the ''more than 50 percent'' test) is satisfied depends on the creditor's activity during the preceding calendar year. However, if the application for the loan in question was received before April 1, the creditor may instead meet the ''more than 50 percent'' test based on its activity during the next-to-last calendar year. This provides creditors with a grace period if their activity meets the ''more than 50 percent'' test (in § 1026.35(b)(2)(iii)(A)) in one calendar year but fails to meet it in the next calendar year.

B. A creditor meets the ''more than 50 percent'' test for any higher-priced mortgage loan consummated during a calendar year if a majority of its first-lien covered transactions in the preceding calendar year are secured by properties located in rural or underserved areas. If the creditor's transactions in the preceding calendar year do not meet the ''more than 50 percent'' test, the creditor meets this condition for a higher-priced mortgage loan consummated during the current calendar year only if the application for the loan was received before April 1 and a majority of the creditor's first-lien covered transactions during the next-to-last calendar year are secured by properties located in rural or underserved areas. The following examples are illustrative:

1. Assume that a creditor originated 180 first-lien covered transactions during 2015 and that 91 of these are secured by properties located in rural or underserved areas. Because a majority of the creditor's first-lien covered transactions during 2015 are secured by properties located in rural or underserved areas, the creditor can meet this condition for exemption for any higher-priced mortgage loan consummated during 2016.

2. Assume that a creditor originated 180 first-lien covered transactions during 2015, including 90 transactions secured by properties that are located in rural or underserved areas. Assume further that the same creditor originated 200 first-lien covered transactions during 2014, including 101 transactions secured by properties that are located in rural or underserved areas. Assume further that the creditor consummates a higher-priced mortgage loan in 2016 for which the application was received in November 2016. Because the majority of the creditor's first-lien covered transactions during 2015 are not secured by properties that are located in rural or underserved areas, and the application was received on or after April 1, 2016, the creditor does not meet this condition for exemption. However, assume instead that this creditor consummates a higher-priced mortgage loan in 2016 based on an application received in February 2016. The creditor meets this condition for exemption for this loan because the application was received before April 1, 2016, and the majority of the creditor's first-lien covered transactions in 2014 are secured by properties that are located in areas that were rural or underserved.

ii. The creditor and its affiliates together originated no more than 2,000 covered transactions, as defined in § 1026.43(b)(1), secured by first liens, that were not sold, assigned, or otherwise transferred by the creditor or its affiliates to another person, or that were subject at the time of consummation to a commitment to be acquired by another person, during the preceding calendar year or during either of the two preceding calendar years if the application for the loan was received before April 1. For purposes of § 1026.35(b)(2)(iii)(B), a transfer of a first-lien covered transaction to ''another person'' includes a transfer by a creditor to its affiliate.

A. In general, whether this condition is satisfied depends on the creditor's activity during the preceding calendar year. However, if the application for the loan in question is received before April 1, the creditor may instead meet this condition based on activity during the next-to-last calendar year. This provides creditors with a grace period if their activity falls at or below the threshold in one calendar year but exceeds it in the next calendar year.

B. For example, assume that a creditor and its affiliates together originated 1,500 loans that were not retained in the portfolio of the creditor or its affiliates in 2015 and 2,500 such loans in 2016. Because the 2016 transaction activity exceeds the threshold but the 2015 transaction activity does not, the creditor satisfies this condition for exemption for a higher-priced mortgage loan consummated during 2017 if the creditor received the application for the loan before April 1, 2017, but does not satisfy this condition for a higher-priced mortgage loan consummated during 2017 if the application for the loan was received on or after April 1, 2017.

iii. As of the end of the preceding calendar year, or as of the end of either of the two preceding calendar years if the application for the loan was received before April 1, the creditor and its affiliates that originate covered transactions secured by a first lien, together, had total assets that are less than the applicable annual asset threshold(s). For purposes of § 1026.35(b)(2)(iii)(C), in addition to the creditor's assets, only the assets of a creditor's ''affiliate'' as defined in § 1026.32(b)(5) that originates covered transactions (as defined by § 1026.43(b)(1)) secured by a first lien, are counted toward the applicable annual asset threshold. A creditor satisfies this criterion for purposes of any higher-priced mortgage loan consummated during 2016, for example, if the creditor (together with its affiliates that originate first-lien covered transactions) had total assets of less than the applicable asset threshold on December 31, 2015. A creditor that (together with its affiliates that originate first-lien covered transactions) did not meet the applicable asset threshold on December 31, 2015 satisfies this criterion for a higher-priced mortgage loan consummated during 2016 if the application for the loan was received before April 1, 2016 and the creditor (together with its affiliates that originate first-lien covered transactions) had total assets of less than the applicable asset threshold on December 31, 2014, which is $2,060,000,000. The asset threshold shall adjust automatically each year based on the year-to-year change in the average of the Consumer Price Index for Urban Wage Earners and Clerical Workers, not seasonally adjusted, for each 12-month period ending in November, with rounding to the nearest million dollars. The Bureau will publish notice of the asset threshold each year by amending this comment. For historical purposes, the prior asset thresholds were:

A. For calendar year 2013, the asset threshold was $2,000,000,000. Creditors that had total assets of less than $2,000,000,000 on December 31, 2012, satisfied this criterion for purposes of the exemption during 2013.

B. For calendar year 2014, the asset threshold was $2,028,000,000. Creditors that had total assets of less than $2,028,000,000 on December 31, 2013, satisfied this criterion for purposes of the exemption during 2014.

C. For calendar year 2015, the asset threshold was $2,060,000,000. Creditors that had total assets of less than $2,060,000,000 on December 31, 2014, satisfied this criterion for purposes of (1) any loan consummated in 2015 and (2) any loan consummated in 2016 for which the application was received before April 1, 2016.

* * * * *

Paragraph 35(b)(2)(iii)(D)(1)

1. *Exception for certain accounts.* Escrow accounts established for first-lien higher-priced mortgage loans for which applications

were received on or after April 1, 2010, and before January 1, 2016, are not counted for purposes of § 1026.35(b)(2)(iii)(D). For applications received on and after January 1, 2016, creditors, together with their affiliates, that establish new escrow accounts, other than those described in § 1026.35(b)(2)(iii)(D)(*2*), do not qualify for the exemption provided under § 1026.35(b)(2)(iii). Creditors, together with their affiliates, that continue to maintain escrow accounts established for first-lien higher-priced mortgage loans for which applications were received on or after April 1, 2010, and before January 1, 2016, still qualify for the exemption provided under § 1026.35(b)(2)(iii) so long as they do not establish new escrow accounts for transactions for which they received applications on or after January 1, 2016, other than those described in § 1026.35(b)(2)(iii)(D)(*2*), and they otherwise qualify under § 1026.35(b)(2)(iii).

* * * * *

Paragraph 35(b)(2)(iv)

1. *Requirements for ''rural'' or ''underserved'' status.* An area is considered to be ''rural'' or ''underserved'' during a particular calendar year for purposes of § 1026.35(b)(2)(iii)(A) if it satisfies either the test for ''rural'' or the test for ''underserved'' in § 1026.35(b)(2)(iv). A creditor's originations of covered transactions, as defined by § 1026.43(b)(1), secured by first liens on properties located in such areas are considered in determining whether the creditor satisfies the condition in § 1026.35(b)(2)(iii)(A). See comment 35(b)(2)(iii)–1.

i. Under § 1026.35(b)(2)(iv)(A), an area is rural during a calendar year if it is: a county that is neither in a metropolitan statistical area nor in a micropolitan statistical area that is adjacent to a metropolitan statistical area; or a census block that is not in an urban area, as defined by the U.S. Census Bureau using the latest decennial census of the United States. Metropolitan statistical areas and micropolitan statistical areas are defined by the Office of Management and Budget and applied under currently applicable Urban Influence Codes (UICs), established by the United States Department of Agriculture's Economic Research Service (USDA–ERS). For purposes of § 1026.35(b)(2)(iv)(A)(*1*), ''adjacent'' has the meaning applied by the USDA–ERS in determining a county's UIC; as so applied, ''adjacent'' entails a county not only being physically contiguous with a metropolitan statistical area but also meeting certain minimum population commuting patterns. A county is a ''rural'' area if the USDA–ERS categorizes the county under UIC 4, 6, 7, 8, 9, 10, 11, or 12. Descriptions of UICs are available on the USDA–ERS Web site at *http://www.ers.usda.gov/data-products/urban-influence-codes/documentation.aspx.* A county for which there is no currently applicable UIC (because the county has been created since the USDA–ERS last categorized counties) is a rural area only if all counties from which the new county's land was taken are themselves rural under currently applicable UICs.

ii. Under § 1026.35(b)(2)(iv)(B), an area is underserved during a calendar year if, according to Home Mortgage Disclosure Act (HMDA) data for the preceding calendar year, it is a county in which no more than two creditors extended covered transactions, as defined in § 1026.43(b)(1), secured by a first lien, five or more times in the county. Specifically, a county is an ''underserved'' area if, in the applicable calendar year's public HMDA aggregate dataset, no more than two creditors have reported five or more first-lien covered transactions with HMDA geocoding that places the properties in that county. For purposes of this determination, because only covered transactions are counted, all first-lien originations (and only first-lien originations) reported in the HMDA data are counted except those for which the owner-occupancy status is reported as ''Not owner-occupied'' (HMDA code 2), the property type is reported as ''Multifamily'' (HMDA code 3), the applicant's or co-applicant's race is reported as ''Not applicable'' (HMDA code 7), or the applicant's or co-applicant's sex is reported as ''Not applicable'' (HMDA code 4). The most recent HMDA data are available at *http://www.ffiec.gov/hmda.*

iii. A. Each calendar year, the Bureau applies the ''underserved'' area test and the ''rural'' area test to each county in the United States. If the entire county satisfies either test, the Bureau will include the county on a published list of entirely ''rural'' or ''underserved'' counties for a particular calendar year. To facilitate compliance with appraisal requirements in § 1026.35(c), the Bureau will also create a list of those counties that are entirely ''rural,'' without regard to whether the counties are ''underserved.'' These lists will not include counties that are partially rural and partially non-rural. To the extent that U.S. territories are treated by the Census Bureau as counties and are neither metropolitan statistical areas nor micropolitan statistical areas adjacent to metropolitan statistical areas, such territories will be included on these lists as rural areas in their entireties. The Bureau will post on its public Web site the applicable lists for each calendar year by the end of that year and publish such lists in the **Federal Register**, to assist creditors in ascertaining the availability to them of the exemption during the following year. Any county that the Bureau includes on its published lists of counties that are entirely ''rural'' or ''underserved'' for a particular year is deemed to qualify as a ''rural'' or ''underserved'' area for that calendar year for purposes of § 1026.35(b)(2)(iv).

B. The Bureau may provide on its public Web site an automated tool that allows creditors to determine whether properties are located in areas that are rural or underserved according to the definitions in § 1026.35(b)(2)(iv) for a particular calendar year. A property is deemed to be in a rural or underserved area during a particular calendar year if it is identified as being in a rural or underserved area by any such tool that may be provided on the Bureau's public Web site.

C. The U.S. Census Bureau may provide on its public Web site an automated address search tool that indicates if a property is located in an urban area for purposes of the Census Bureau's most recent delineation of urban areas. For any calendar year that began after the date on which the Census Bureau announced its most recent delineation of urban areas, a property is deemed to be in a rural area if the search results provided for the property by any such tool available on the Census Bureau's public Web site do not designate the property as being in an urban area.

2. *Examples.* i. An area is considered ''rural'' for a given calendar year based on the most recent available UIC designations by the USDA–ERS and the most recent available delineations of urban areas by the U.S. Census Bureau that are available at the beginning of the calendar year. These designations and delineations are updated by the USDA–ERS and the U.S. Census Bureau respectively once every ten years. As an example, assume a creditor makes first-lien covered transactions in Census Block X that is located in County Y during calendar year 2017. As of January 1, 2017, the most recent UIC designations were published in the second quarter of 2013, and the most recent delineation of urban areas was announced in the **Federal Register** in 2012, *see* U.S. Census Bureau, *Qualifying Urban Areas,* 77 FR 18652 (Mar. 27, 2012). To determine whether County Y is entirely rural during calendar year 2017, the creditor can use USDA–ERS's 2013 UIC designations. If County Y is not entirely rural, the creditor can use the U.S. Census Bureau's 2012 delineation of urban areas to determine whether Census Block X is rural and is therefore a ''rural'' area for purposes of § 1026.35(b)(2)(iv)(A).

ii. A county is considered an ''underserved'' area for a given calendar year based on the most recent available HMDA data. For example, assume a creditor makes first-lien covered transactions in County Y during calendar year 2016, and the most recent HMDA data are for calendar year 2015, published in the third quarter of 2016. The creditor will use the 2015 HMDA data to determine ''underserved'' area status for County Y in calendar year 2016 for the purposes of qualifying for the ''rural or underserved'' exemption for (1) any higher-priced mortgage loans consummated in calendar year 2017 or (2) any higher-priced mortgage loan consummated during 2018 for which the application was received prior to April 1, 2018.

* * * * *

Section 1026.43—Minimum Standards for Transactions Secured by a Dwelling

* * * * *

Paragraph 43(e)(5)

* * * * *

4. *Creditor qualifications.* To be eligible to make qualified mortgages under § 1026.43(e)(5), a creditor must satisfy the requirements stated in § 1026.35(b)(2)(iii)(B) and (C). Section 1026.35(b)(2)(iii)(B) requires that, during the preceding calendar year, or, if the application for the transaction was received before April 1, during either of the two preceding calendar years, the creditor and its affiliates together originated no more than 2,000 covered transactions, as defined by § 1026.43(b)(1), secured by first liens, that

were sold, assigned, or otherwise transferred to another person, or that were subject at the time of consummation to a commitment to be acquired by another person. Section 1026.35(b)(2)(iii)(C) requires that, as of the preceding December 31st, or, if the application for the transaction was received before April 1, as of either of the two preceding December 31sts, the creditor and its affiliates that originate covered transactions, as defined by § 1026.43(b)(1), secured by a first lien, together, had total assets of less than $2 billion, adjusted annually by the Bureau for inflation.

* * * * *

8. *Transfer to another qualifying creditor.* Under § 1026.43(e)(5)(ii)(B), a qualified mortgage under § 1026.43(e)(5) may be sold, assigned, or otherwise transferred at any time to another creditor that meets the requirements of § 1026.43(e)(5)(i)(D). A qualified mortgage under § 1026.43(e)(5) transferred to a creditor that meets these criteria would retain its qualified mortgage status even if it is transferred less than three years after consummation.

* * * * *

43(f) Balloon-Payment Qualified Mortgages Made by Certain Creditors

43(f)(1) Exemption

* * * * *

Paragraph 43(f)(1)(vi)

1. *Creditor qualifications.* Under § 1026.43(f)(1)(vi), to make a qualified mortgage that provides for a balloon payment, the creditor must satisfy three criteria that are also required under § 1026.35(b)(2)(iii)(A), (B) and (C), which require:

i. During the preceding calendar year or during either of the two preceding calendar years if the application for the transaction was received before April 1, the creditor extended over 50 percent of its total first-lien covered transactions, as defined in § 1026.43(b)(1), on properties that are located in areas that are designated either ''rural'' or ''underserved,'' as defined in § 1026.35(b)(2)(iv), to satisfy the requirement of § 1026.35(b)(2)(iii)(A). Pursuant to § 1026.35(b)(2)(iv), an area is considered to be rural if it is: a county that is neither in a metropolitan statistical area, nor a micropolitan statistical area adjacent to a metropolitan statistical area, as those terms are defined by the U.S. Office of Management and Budget; or a census block that is not in an urban area, as defined by the U.S. Census Bureau using the latest decennial census of the United States. A county is considered to be an underserved area if no more than two creditors extend covered transactions secured by a first lien five or more times in that county during a calendar year.

A. The Bureau determines annually which counties in the United States are entirely rural or underserved and publishes on its public Web site lists of those counties to assist creditors in determining whether they meet this criterion. The Bureau may also provide an automated tool on its public Web site that can be used to determine whether specific properties are located in areas that qualify as ''rural'' or ''underserved'' according to the definitions in § 1026.35(b)(2)(iv) for a particular calendar year. The U.S. Census Bureau may also provide on its public Web site an automated address search tool that indicates if a specific property address is located in an urban area for purposes of the Census Bureau's most recent delineation of urban areas. For any calendar year that begins after the date on which the Census Bureau announced its most recent delineation of urban areas, a property is located in an area that qualifies as ''rural'' according to the definitions in § 1026.35(b)(2)(iv) if the search results provided for the property by any such tool available on the Census Bureau's public Web site do not identify the property as being in an urban area.

B. For example, if a creditor originated 100 first-lien covered transactions during 2016 and 90 first-lien covered transactions during 2017, the creditor meets this element of the exception for any transaction consummated during 2018 if at least 46 of its 2017 covered transactions are secured by first liens on properties that are located in one or more counties on the Bureau's lists for 2017 or are located in one or more census blocks that are not in an urban area, as defined by the Census Bureau.

C. Alternatively, if the creditor's 2017 transactions do not meet the test, the creditor satisfies this criterion for any transaction consummated during 2018 for which it received the application before April 1 if at least 51 of its 2016 covered transactions are secured by first liens on properties that are located in one or more counties on the Bureau's lists for 2016 or are located in one or more census blocks that are not in an urban area.

ii. During the preceding calendar year, or, if the application for the transaction was received before April 1, during either of the two preceding calendar years, the creditor together with its affiliates originated no more than 2,000 covered transactions, as defined by § 1026.43(b)(1), secured by first liens, that were sold, assigned, or otherwise transferred to another person, or that were subject at the time of consummation to a commitment to be acquired by another person, to satisfy the requirement of § 1026.35(b)(2)(iii)(B).

iii. As of the preceding December 31st, or, if the application for the transaction was received before April 1, as of either of the two preceding December 31sts, the creditor and its affiliates that originate covered transactions secured by a first lien, together, had total assets that do not exceed the applicable asset threshold established by the Bureau, to satisfy the requirement of § 1026.35(b)(2)(iii)(C). The Bureau publishes notice of the asset threshold each year by amending comment 35(b)(2)(iii)–1.iii.

43(f)(2) Post-Consummation Transfer of Balloon-Payment Qualified Mortgage

* * * * *

2. *Application to subsequent transferees.* The exceptions contained in § 1026.43(f)(2) apply not only to an initial sale, assignment, or other transfer by the originating creditor but to subsequent sales, assignments, and other transfers as well. For example, assume Creditor A originates a qualified mortgage under § 1026.43(f)(1). Six months after consummation, Creditor A sells the qualified mortgage to Creditor B pursuant to § 1026.43(f)(2)(ii) and the loan retains its qualified mortgage status because Creditor B complies with the conditions relating to operating in rural or underserved areas, asset size, and number of transactions. If Creditor B sells the qualified mortgage, it will lose its qualified mortgage status under § 1026.43(f)(1) unless the sale qualifies for one of the § 1026.43(f)(2) exceptions for sales three or more years after consummation, to another qualifying institution, as required by supervisory action, or pursuant to a merger or acquisition.

* * * * *

Paragraph 43(f)(2)(ii)

1. *Transfer to another qualifying creditor.* Under § 1026.43(f)(2)(ii), a balloon-payment qualified mortgage under § 1026.43(f)(1) may be sold, assigned, or otherwise transferred at any time to another creditor that meets the requirements of § 1026.43(f)(1)(vi). That section requires that a creditor: (1) Extend over 50 percent of its total first-lien covered transactions, as defined in § 1026.43(b)(1), on properties located in rural or underserved areas; (2) together with all affiliates, originate no more than 2,000 first-lien covered transactions not retained in the portfolio of the creditor or its affiliates; and (3) have, together with its affiliates that originate covered transactions secured by a first lien, total assets less than $2 billion (as adjusted for inflation) at the end of the calendar year. These tests are assessed based on transactions and assets from the calendar year preceding consummation of the transaction or from either of the two calendar years preceding consummation if the application for the transaction was received before April 1 of the calendar year in which the loan was consummated. A balloon-payment qualified mortgage under § 1026.43(f)(1) transferred to a creditor that meets these criteria would retain its qualified mortgage status even if it is transferred less than three years after consummation.

* * * * *

Dated: January 27, 2015.

Richard Cordray,

Director, Bureau of Consumer Financial Protection.

[FR Doc. 2015–02125 Filed 2–10–15; 8:45 am]

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